

- (6) **Open air markets.** A special use permit may be issued by the Planning Commission for the operation of open air markets, including outdoor flea markets, farmer's markets or roadside produce stands after the Commission has held a public hearing in accordance with the procedures established in Section 42-24 of the Salina Code, subject to the following provisions:
- a. An outdoor flea market may operate in a C-3 or higher district and is defined as any place where the owner or operator thereof allows more than one (1) person to sell merchandise from outdoor stalls, booths, stands, etc., which are not open for business on a daily basis. The permit shall be valid for a calendar year and may be renewed administratively on an annual basis by the Zoning Administrator following initial approval by the Planning Commission.
  - b. A farmer's market may operate in a C-3 or higher district and is defined as any place, with or without permanent buildings or structures, where fruit, vegetables, produce, handmade crafts, etc., are sold from more than one (1) produce stand operated by different persons. The permit shall be valid for a calendar year and may be renewed administratively on an annual basis by the Zoning Administrator following initial approval by the Planning Commission.
  - c. A roadside stand may be located in an A-1 or C-3 or higher district and is defined as a temporary structure used by one (1) operator for the sale of farm produce. The permit shall be valid for no more than six (6) continuous months in a calendar year. No produce sales shall be made within thirty (30) feet of the roadway improvement. Area for a roadside stand operating more than one (1) month per year, an off-street parking area shall be provided.
  - d. Application Requirements.
    1. Pre-Application Conference. Prior to the acceptance of a special use permit application, applicants shall participate in a pre-application conference with the Planning Department for the purposes of discussing application requirements, specifics of the site and plans for parking, traffic control, pedestrian safety, the need for utilities and/restroom facilities, trash disposal and site clean up.
    2. Applications for a special use permit for an open air market shall be filed with the Planning Department and shall include the following:
      - i. A plot plan of the site drawn to an accurate scale and showing all pertinent information, including proposed parking areas. The application material shall provide sufficient information, as determined by the zoning administrator, to allow a complete review of the proposal.

The application material shall also include sufficient detail to indicate compliance with all performance standards. Failure to provide adequate information may result in the rejection of the application.

- ii. The name and phone number of the individual responsible for overseeing the operation of the open air market and a copy of the lease between the operator and the owner of the property if applicable.
- iii. A statement indicating the number of vendors that will be setting up booths, stands or tables at the market.
- iv. A statement describing any temporary structures that will be erected on the site.
- v. A statement describing the provisions made for off-street parking and pedestrian access to the site.
- vi. A statement indicating proposed measures designed to minimize potentially adverse effects, including trespassing, on adjacent properties.

e. Conditions.

In granting a special use permit, the Planning Commission may impose appropriate conditions and safeguards including but not limited to commencement and termination dates, dates and hours of operation, improved traffic circulation, pedestrian safety requirements, parking requirements, or any other requirements which the Commission deems appropriate upon a finding that they are necessary to fulfill the purpose and intent of this chapter.

f. Denial of special use permit.

Any decision to deny a special use permit under this section shall be made in writing and shall state the specific reasons for the denial. Any denial made by the Planning Commission may be appealed to the Board of City Commissioners. Any denial by the Board of City Commissioners shall be deemed a final administrative decision, subject to judicial review and appeal. In the event that a special use permit application is denied by the Planning Commission or Board of City Commissioners for a particular location, no new request for the same or substantially similar special use permit shall be accepted or processed for that location during the same calendar year.

g. Protests.

The notification and protest area for special use permit applications shall be two hundred fifty (250) feet from the proposed open air market. If a special use permit is approved by the Planning

Commission, affected property owners shall have the same right to present a protest petition to the Board of City Commissioners and appeal that decision as property owners in rezoning cases. The protest procedure shall be as provided in K.S.A. 12-708 and section 42-26(b) of this chapter.

- h. If an operator of an open air market fails to comply with the conditions upon which a permit was approved by the Planning Commission, or the Board of City Commissioners, the City Manager may revoke the special use permit and direct the open air market to cease operation. Revocation of a special use permit may be appealed to the Board of City Commissioners.