

WHEN RECORDED RETURN TO:

City of Buckeye
ATTN: City Clerk, Lucinda J. Aja
530 East Monroe Avenue
Buckeye, Arizona 85326

ORDINANCE NO. 11-20

AN ORDINANCE BY THE MAYOR AND COUNCIL OF THE CITY OF BUCKEYE, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT ON FILE WITH THE CITY CLERK ENTITLED THE “CITY OF BUCKEYE DEVELOPMENT CODE AUGUST 2020 AMENDMENTS” BY REFERENCE; AND AMENDING THE CITY OF BUCKEYE CODE, CHAPTER 7, DEVELOPMENT CODE, BY AMENDING ARTICLE 3 USE REGULATIONS; ARTICLE 5 DEVELOPMENT AND DESIGN STANDARDS AND GUIDELINES; ARTICLE 8 REVIEW AND APPROVAL PROCEDURES; ARTICLE 10 DEFINITIONS, AND APPENDIX C OBSOLETE DISTRICTS PERMISSIBLE USES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTIES; AND DECLARING AN EMERGENCY.

WHEREAS, that certain document entitled the “City of Buckeye Development Code August 2020 Amendments,” of which at least three paper copies or one paper copy and one electronic copy are on file in the Office of the City Clerk and open for public inspection during normal business hours, is hereby declared to be a public record and said copies are ordered to remain on file with the City Clerk; and

WHEREAS, the Mayor and City Council of the City of Buckeye, Arizona, believe that it is in the best interest of the City to amend various sections of the Development Code of the City of Buckeye as provided in the City of Buckeye Development Code August 2020 Amendments to promote the health, safety and welfare of the City’s residents.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BUCKEYE, ARIZONA, as follows:

Section 1. The recitals set forth above are hereby incorporated as if fully set forth herein.

Section 2. That certain document entitled the “City of Buckeye Development Code August 2020 Amendments,” is hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

Section 3. The City Code is hereby amended by deleting and amending the sections referenced in the “City of Buckeye Development Code August 2020 Amendments,” and inserting the provisions in the “City of Buckeye Development Code August 2020 Amendments,” as provided therein in Chapter 7, Development Code.

Section 4. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the City Code are hereby repealed.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the City Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 6. Violations of any provision of the City of Buckeye Development Code August 2020 Amendments adopted herein shall be subject to the enforcement provisions of Article 9, Chapter 7 of the Development Code, and may be subject to civil and/or criminal penalties as follows:

Section 9.3.4.

Criminal and Civil Penalties.

A. Any person, firm, or corporation violating any provision of this Development Code, or any amendments to it, shall be guilty of a Class One Misdemeanor punishable by a fine not exceeding \$2,500, or by imprisonment for a period not exceeding six months, or by both such fine and imprisonment, for each violation.

B. Violation of any provision of this Development Code, or any amendments to it, may also subject the offender to a civil monetary penalty in an amount to be established by the City Council. If the offender fails to pay this penalty within 15 days after being cited for a violation, the penalty may be recovered by the City in a civil action in the nature of a debt. A civil penalty may not be appealed to the *Planning* Commission if the offender was sent a final notice of violation in accordance with this Section and did not take an appeal to the *Planning* Commission within 20 days of the date of such final notice.

Section 7. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps and to execute all documents necessary to carry out the purpose and intent of this Ordinance.

Section 8. The immediate operation of this Ordinance is necessary for the immediate preservation of the public peace, health or safety, and an emergency is hereby declared to exist, to wit: the immediate commencement of the notice procedures is necessary to get certain street improvements completed in an expeditious manner; and this Ordinance shall be in full force and effect from and after its passage, adoption and approval by the Mayor and Council of the City of Buckeye.

PASSED AND ADOPTED by the Mayor and City Council of the City of Buckeye, Arizona, this 18th day of August, 2020.

Jackie A. Meck, Mayor

ATTEST:

Lucinda J. Aja, City Clerk

APPROVED AS TO FORM:

City Attorney

CITY OF BUCKEYE DEVELOPMENT CODE AUGUST 2020 AMENDMENTS

AMENDING THE CITY OF BUCKEYE CODE OF ORDINANCES, CHAPTER 7,
DEVELOPMENT CODE, TO READ AS FOLLOWS (CHANGES SHOWN IN LEGISLATIVE
FORMAT):

Code Language that is black is existing language that is not changed.

Code Language that is red and underlined is new language.

~~Code Language~~ that is red and struck-through is to be deleted.

ARTICLE 3: USE REGULATIONS

3.1.5 Table of Allowed Uses^{1,2}

Table 3.1-1: TABLE OF ALLOWED USES																							
P=Permitted C=Conditional Use																							
Use Category	Use Type	A G	RESIDENTIAL									MIXED-USE				NON-RESIDENTIAL						Use Standards	
			SF 43	SF 18	SF 10	SF 6	SF 3	SF 1	M F 1	M F 2	M H	N M U	C M U	R M U	D C	P O	C 1	C 2	C 3	B P	I 1		I 2
TEMPORARY USES																							
	Antennas, temporary	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	3.4.2.A	
	Expansion or replacement facilities, temporary	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	3.4.2.B	
	Food Trucks; Mobile Food Vendor	P											P	P	P	P	P	P	P	P	P	3.4.2.G	
	Office space/ equipment storage, temporary	P											P	P	P	P	P	P	P	P	P	3.4.2.B	
	Retail sales, temporary	P											P	P	P	P	P	P	P	P	P	3.4.2.C	
	Roadside stand	P	P																				
	Sales/leasing office, temporary	P	P	P	P	P	P	P	P	P	P	P	P	P	P							3.4.2.E	
	Yard sale, temporary	P	P	P	P	P	P	P	P	P	P	P	P	P								3.4.2.F	
	Other temporary uses	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	3.4.2.GH	

3.4. TEMPORARY USES AND STRUCTURES

3.4.1. Purpose

This Section ~~3.4~~ allows for the establishment of certain temporary uses, provided that a temporary use permit, if required, is properly obtained ~~pursuant to Section 8.10, Temporary Use Permits, of this Development Code~~ and ~~provided that~~ the temporary use complies with the standards of this section.

3.4.2. Temporary Uses Allowed

The following temporary uses are allowed provided they comply with the conditions stated below:

¹ ORD. 14-15; 07/07/2015

² ORD. 18-17; 07/05/2017

A. Antennas, Temporary

Temporary antennas may only be allowed in the following instances:

1. In conjunction with a festival, carnival, or other permitted temporary use. The antenna(s) shall only be allowed commencing from one week prior to the event and be removed one week after the event.
2. In conjunction with a natural calamity such as a storm or other emergency as declared by the City's Police or Fire Departments, which calamity has damaged or destroyed the regular facilities, and the temporary facilities are needed to restore service until the damage can be repaired or replaced. The facility owner or the service provider shall notify the City within 24 hours of the outage, and must receive an administrative permit if the temporary facility will be required for more than seven days.

B. Expansion or Replacement Facilities, Temporary

Expansion or replacement facilities are permitted, provided that they consist of transportable buildings that are pre-constructed and arrive at the site ready for occupancy and are readily removed and installed at other sites. Such facilities may include, but are not limited to, the following:

1. Expansion of existing religious assembly facilities, health care facilities, schools, and government offices following the approval of filed plans and applications for the permanent alteration/expansion of these facilities.
2. Temporary classroom space for existing schools.
3. Temporary office space for construction and security personnel during the construction of an approved development for which a grading or building permit has been issued
4. Temporary space for recreational uses provided in connection with an approved residential development under construction.
5. Temporary space for a non-residential or residential use following damage to or destruction of a building by fire or other catastrophic event.
6. Temporary office space (one per site) for hiring, membership solicitation, apartment office/leasing, and general office use following the issuance of a building permit for the construction of a permanent office building.

C. Retail Sales, Temporary

Retail sales of products, including but not limited to Christmas trees, nursery products, agricultural produce, or fireworks, is permitted in any nonresidential district for a period not to exceed the number of days specified in the temporary use permit. Display of products need not comply with the yard and setback requirements of this Development Code provided that no display shall be located within an area restricted by the vision clearance area requirements of this Code or Engineering Design Standards.

D. Roadside Stand, Temporary

A temporary structure or use for the seasonal retail sale of locally grown food products such as food and vegetables may be allowed in the RR, AG and SF-43 districts. Additional right-of-way permits and/or business licensing may be required.

E. Sales/Leasing Office, Temporary

A temporary sales or leasing office that is located within a permanent structure, such as a model home, is permitted for residential development in any residential or mixed

use zoning district until all of the lots, houses, or dwelling units are sold or leased. ~~A temporary leasing office is permitted for residential development in any mixed use, commercial, or industrial district until all of the leasable area or units have been leased.~~ A transportable sales office modular or manufactured building may be used for a period of six months, or until the first six lots/units or 10 percent of the lots/units that have been final platted/approved, whichever is less, are improved; after which time the transportable office modular or manufactured building must be replaced with a modular or manufactured office on a foundation sales or leasing office within a permanent structure. ~~A transportable leasing office may be used for a period of six months, or until the first 10 percent of the leasable area or units, whichever is less, are leased, after which time the transportable office must be replaced with a modular or manufactured office on a foundation.~~ Use of the sales or leasing office for sites outside of the project is prohibited.

F. Yard Sales, Temporary

Yard sales in agricultural and residential zones are permitted on any property where residential use is the principal use, ~~after and do not require the~~ issuance of a Temporary Use Permit under Section 3.4.4 *Temporary Uses and Structures*, ~~where unless~~ the length or frequency of the yard sale exceeds that exempt under Section 3.4.4.B *Temporary Uses and Structures*. Yard sales in mixed use development are only permitted on property where residential use is the principal use, and only after issuance of a Temporary Use Permit under Section 3.4.4 *Temporary Uses and Structures*. No yard sale may exceed 72 hours in any 30-day period.

G. Food Truck (Mobile Food Vendor) Other Temporary Uses

~~The Director may approve other temporary uses or structures using the process established in Section 3.1.4, Classification of New and Unlisted Uses.~~ Food trucks located on private property within non-residential zoning districts are temporary uses subject to the following:

1. Food trucks and all associated equipment shall not be located on a single property for greater than 24 continuous hours, unless it is associated with a longer-term permitted temporary event. Food trucks which intend to permanently locate on a private property are permanent uses and require full site improvements and site plan review.
2. Food trucks, signs, canopies, seating, and associated customer parking shall be located entirely on private property on a paved dust-free surface. Food trucks on public property shall be governed by the Buckeye City Code and applicable state law.
3. Food trucks shall not be located within 250-feet of residential zoned property
4. Storage containers, coolers, refrigerators, storage buildings, permanent canopies or other structures associated with the food truck are not permitted.
5. Food trucks shall be operable/drivable, licensed and comply with all Maricopa County Health Department requirements.
6. Food truck shall be licensed in accordance with City of Buckeye license requirements.

H. Other Temporary Uses

The Director may approve other temporary uses or structures using the process established in Section 3.1.4, Classification of New and Unlisted Uses.

3.4.3. General Requirements for All Temporary Uses and Structures

All temporary uses or structures shall meet the following general requirements, unless otherwise specified in this Development Code:

- A. Permanent alterations to the site are prohibited.
- B. All temporary signs associated with the temporary use or structure shall comply with the standards of Section 5.12.5, Temporary Signs and shall be removed when the activity ends.
- C. The temporary use or structure shall not violate any applicable conditions of approval that apply to a principal use on the site.
- D. The temporary use standards of this section do not exempt the applicant or operator from any other required permits, such as health department permits.
- E. If the property is undeveloped, it shall contain sufficient land area to allow the temporary use or structure to occur, as well as any parking and traffic movement that may be associated with the temporary use.
- F. If the property is developed, the temporary use shall be located in an area that is not actively used by an existing approved principal use, and that would support the proposed temporary use without encroaching or creating a negative impact on existing buffers, open space, landscaping, traffic movements, emergency access, pedestrian circulation, or parking space availability. Tents and other temporary structures shall be located not to interfere with the normal operations of any permanent use located on the property.
- G. All temporary lighting and sound equipment shall be directed away from adjacent rights-of-way and properties and extinguished/silenced at the close of business.
- H. All temporary vehicles/structures/tents shall be located at least 50 feet from a residential use and not exceed 14 feet in height.
- I. Written property owner permission is required for all temporary uses.

3.4.4. Temporary Use Permits

A. Permit Required

All temporary uses and structures shall obtain a temporary use permit pursuant to the procedures set forth in Section 8.7, Conditional Use Permits Section 8.10, Temporary Use Permits, of this Development Code. ~~A temporary use permit shall be reviewed, approved, or revoked only pursuant to Section 8.7 and this section.~~

B. Permit Exemptions

Notwithstanding Subsections 3.4.2 and 3.4.3.A., the following temporary uses are deemed approved in any district and do not have to obtain a temporary use permit, provided that the proposed temporary use complies with the ~~general~~ requirements in Subsections 3.4.2 and 3.4.3.A.:

- 1. Events and temporary uses utilizing City property, public streets, or public rights-of-way, provided that the applicant shall coordinate ~~the event~~ with Community Services, the Buckeye Police and Fire Departments, and comply with any conditions required by those departments. In addition, such events shall comply with the following:
 - ~~a. Hours of operation shall be between 6 a.m. and 10 p.m.;~~
 - b. Lighting and sound equipment shall be directed away from adjacent residential uses;

- c. All temporary ~~vehicles~~/structures/tents shall be located at least 50 feet from a residential use and not exceed 14 feet in height.
 - d. Driveways, sidewalks, streets, or parking areas shall not be blocked or their function impeded. Provisions shall be made to provide for the safe and efficient flow of traffic during the event.
- 2. Up to seven, two-day garage or yard sales per year per dwelling unit;
- 3. Temporary car washes, provided that the total number of days is no more than seven per year;
- 4. Gatherings of less than 100 people, such as block parties, nonprofit bazaars, and fundraisers, provided such gatherings in residential areas are confined to the hours of 8 a.m. to 9 p.m.; ~~and~~
- 5. Temporary uses that occur wholly within an enclosed permanent building;
- 6. Food Trucks; and
- 7. Temporary office space for construction and security personnel.

ARTICLE 5: DEVELOPMENT AND DESIGN STANDARDS AND GUIDELINES

5.11. SIGNS

5.11.2. Permit Required

The placement of signs, except as listed below, shall require a sign permit issued by the City. The following types of signs are exempt from obtaining a permit:

- A. Political signs and banners;
- B. Directional and traffic signs;
- C. Window signs not exceeding 20 percent of the window area;
- D. Signs not visible from off property or business; and
- E. Signs pertaining to the lease, sale, or rental of land or buildings, the size of which are six square feet or less for parcels up to five acres and twenty-four square feet or less for parcels more than five acres.
- F. Temporary signs approved as part of an approved temporary use permit.

ARTICLE 8: REVIEW AND APPROVAL PROCEDURES

8.1. PURPOSE AND ORGANIZATION OF THIS ARTICLE³

8.1.3. Summary Table⁴

Table 8.1-1 summarizes the review and decision-making responsibilities for the procedures described in this Article. The table is a summary tool and does not describe all possible types of decisions made under this Development Code. Other duties and responsibilities are described in Article 7, Review and Decision-Making Bodies.

TABLE 8.1-1: REVIEW AND DECISION-MAKING RESPONSIBILITIES						
R = Review (Responsible for Review and/or Recommendation) H = Hearing (Public Hearing Required) D = Decision (Responsible for Final Decision) A = Appeal (Authority to Hear/Decide Appeals)						
Procedure	Section	Pre-App Conf?	Director	P&Z	City Council	Board of Adjustment
Temporary Use Permit	8.10.		D		H-A	H-A

8.10. TEMPORARY USE PERMITS

8.10.1. Applicability

No use that is classified as a temporary use in the zoning district in which it is to be located shall be placed or established on the property without first receiving a temporary use permit, unless exempted from the permit requirements by Article 3, Use Regulations.

8.10.2. Procedure

The common development review procedures of Section 8.2 shall apply, with modifications as noted below. ~~(See Figure 8.10-A.)~~

A. Step 1 (Pre-Application Conference)

Not applicable.

B. Step 2 (Neighborhood Meeting)

Optional at the applicant's discretion.

C. Step 3 (Development Application Submittal)

Applicable, ~~with the following modification: All applications for temporary use permits shall be filed at least four weeks prior to the date the temporary use will commence, or at least six weeks prior to the date the temporary use will commence if public safety support is requested from the City. The Director may waive this filing deadline requirement in an individual case for good cause shown.~~

³ RES. 17-15, ORD. 03-15; 03/17/2015

⁴ ORD 27-15; 12/19/2017

D. Step 4 (Determination of Application Completeness)

Applicable.

E. Step 5 (Staff Report)

Not applicable.

F. Step 6 (Notice)

Not applicable.

G. Step 7 (Public Hearings)

Not applicable.

H. Step 8 (Decision and Findings)

Applicable. The following additional procedures shall apply:

1. Action by Director

The Director shall review each application and distribute the application to other reviewers as he or she deems necessary. Based on the results of those reviews, the Director shall take final action on the application and approve, approve with conditions, or deny the application based on the applicable approval criteria.

2. Duration of Permit

A temporary use permit shall be valid only for the time period stated on the permit unless otherwise authorized in this Development Code. ~~A maximum of two 30-day extensions may be granted by the Director.~~ A new temporary use permit shall be required for each time period.

I. Step 9 (Approval Criteria)

Applicable, as follows: The Director shall issue a temporary use permit only upon finding that the proposed temporary use satisfies the requirements set forth in Article 3, *Use Regulations*.

J. Step 10 (Conditions of Approval)

Applicable.

K. Step 11 (Amendments)

Applicable.

L. Step 12 (Lapse)

Applicable, as follows: The temporary use permit shall lapse and be null and void upon expiration of the time limit specified in the permit.

ARTICLE 10: DEFINITIONS

10.3. DEFINITIONS OF GENERAL USE CATEGORIES AND SPECIFIC USE TYPES

This section defines the general use categories and specific use types listed in Table 3.1-1, *Table of Allowed Uses*.

10.3.3. Commercial Uses

E. Food and Beverage Service

Food and Beverage Service businesses serve prepared food or beverages for consumption on or off the premises. This use category does not include grocery stores, which are included in the General Retail category. Accessory uses may include food preparation areas, offices, and parking. Specific use types include, but are not limited to:

1. Food Sales, Wholesale

A facility that makes food on-site, and may sell food items directly at the facility provided that any such sales are secondary and incidental to the primary operation of food production.

2. Bar, Lounge, or Tavern

A structure or part of a structure used primarily for the sale or dispensing and on-site consumption of alcoholic beverages or liquor by the drink, which may or may not serve food. Any facility providing both food and alcoholic beverages or liquor by the drink for on-site consumption that does not meet the definition of a restaurant shall be considered a bar, lounge, or tavern.

3. Catering Service

An establishment that prepares food for service at a remote site.

4. Drive-In Restaurant

A restaurant where customers purchase and consume prepared food on the premises in their automobiles.

5. Farmers Market

A building, structure, or tract of land with open air stands that is used for the primary purpose of retail sales of fresh fruits, vegetables, flowers, herbs, or plants. This definition may also include the accessory sales of other unprocessed foodstuffs, home processed food products, baked goods, and home-made handicrafts.

6. Food Truck (Mobile Food Vendor)

A food truck or Mobile food vendor means any person who owns, controls, manages or leases a mobile food unit or contracts with a person to prepare foods and vend from, drive or operate a mobile food unit. For the purposes of this section, a mobile food unit means a food establishment that is licensed by this state, that is readily movable and that dispenses food or beverages for immediate service and consumption and other incidental retail items from any vehicle as defined in Arizona Revised Statutes Section 28-101.

7. Nightclub

A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing and musical entertainments are permitted.

8. Restaurant, Without Drive-Thru

An area or structure in which the principal use is the preparation and sale of food and beverages. Operations may or may not include outdoor seating areas or outdoor food service, but the operation does not include a drive-through or drive-in facility.

9. Restaurant, With Drive-Thru

An eating/drinking establishment in which the principal business is the sale of foods or beverages to the customer in a ready-to-consume state and in which the design or method of operation of all or any portion of the business allows food or beverages to be served directly to the customer in a motor vehicle without the need for the customer to exit the motor vehicle.

APPENDIX C: OBSOLETE DISTRICTS PERMISSIBLE USES

Note: Conditional Uses are designated with a “C” all other permitted uses are designated with a “P”.

PRINCIPAL USE ⁵	ZONING DISTRICT						
	RR	PR	MR	PC	CC	GC	SU
Airport and Related Uses						C	C
...							
Social service facility			C				
Swap meet						P	P
<u>Temporary Uses*</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
⁶ Tobacco Oriented Retailer**					P	P	
Truck repair and overhaul						P	
Truck stop						P	
Vehicle and RV sales/service						P	
Vehicle storage						P	
Veterinary clinic	P				P	P	
Animal hospital	C				C	P	
Warehousing, retail					P	P	
Warehousing, wholesale						P	
Zoo, private or public	C					C	C

* Temporary Uses are subject to the use standards in Section 3.4.

** Tobacco Oriented Retailers are subject to the use standards in Section 3.2.3.L

⁵ ORD. 18-17; 07/05/2017

⁶ ORD. 14-15; 07/07/2015