



**CASEY'S GENERAL STORES, INC.**

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***VIA ELECTRONIC MAIL***

Board of Zoning and Adjustment  
City of Lee's Summit

RE: **Casey's Marketing Company / Lee's Summit, MO**

Members of the BZA,

Casey's respectfully appeals city staff's interpretation of the Lee's Summit City Ordinance Section 6.1480, which interpretation resulted in the attached notice of violation for the Casey's store at 1800 NE Langsford Road in Lee's Summit. The interpretation of the section in question resulted in the classification of an ice bunker on the exterior wall of Casey's store as an unallowable accessory use or structure.

Casey's respectfully disagrees with the interpretation of the ordinance, and instead argues that the plain language of the ordinance specifically creates an exception for the ice bunker, and under the language of the ordinance, the ice bunker does not constitute an accessory use or structure.

Section 6.1480 reads as follows:

**Sec. 6.1480. - Prohibited accessory uses and structures.**

The following accessory uses and structures are specifically prohibited:

- A. Automotive repair in residential districts except for personal vehicles being repaired inside a garage.
- B. Hog lots.
- C. Livestock commercial feed lots.
- D. Detached carports except when specifically approved as part of a preliminary development plan for a multi-family development.
- E. Outdoor vending machines, except for:
  1. Certain outdoor vending machines that are accessory to financial institutions, such as ATM's, self-service car wash business dispensers offering such items as cleaners, waxes and towels for vehicle washing and similar accessory uses and structures approved by the Director. Such accessory vending machines shall be attached to or built into exterior walls of the commercial business or integrated into a drive island, and
  2. Mobile food vending regulated in Division V of this article.

**Note: Retail sales of products being displayed outdoors, provided such products are being sold within the commercial building where the products are being displayed shall not constitute an accessory use or structure. Said outdoor product display shall be located immediately adjacent to the wall of the building or within 20 feet of such wall, or in the case of a C-Store adjacent to the pump island, except for seasonal sales regulated by Division V of this article.**

(emphasis added).

The “Note” section, emphasized above, delineates criteria that when met shall not constitute an accessory use or structure. The criteria set out in the Note are all met by the ice bunker at Casey’s.

- *“Retail sales of products displayed outdoors, . . .*
  - The ice bunker is on the exterior wall and holds bagged ice, a retail sales product.
- *. . . provided such products are being sold within the commercial building where the products are being displayed . . .”*
  - The bagged ice is sold within the Casey’s building (purchases of ice cannot be completed at the ice bunker itself).
- *“Said outdoor product display shall be located immediately adjacent to the wall of the building or within 20 feet of such wall . . .”*
  - The product display is immediately adjacent to the wall of the Casey’s building.

Therefore, according to the plain language of the ordinance, the ice bunker “shall not constitute an accessory use or structure.” Therefore, if it does not constitute an accessory use or structure, it follows that it cannot be deemed a *prohibited* accessory use or structure.

We respectfully request the BZA reject the city staff interpretation in the attached notice.

Very truly yours,  
*Amy M. Costello*  
Amy M. Costello  
Legal Counsel