

Chapter 3

PERMITTED LAND USES

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Sec. 3-1. Introduction of Land Use Table.

The Land Use Table within Section 3.4 below lists the uses allowed within all base zoning districts. Each of the listed uses is defined in City Code Section 4-1-6, *Definitions*.

(Ord. 2018-07, 05/21/2018)

Sec. 3-2. Interpretation of Land Use Table.

- A. Permitted Uses. “P” in a cell indicates that the use is allowed by right, without special conditions other than those imposed upon other uses by right in the district. Permitted uses are subject to all other applicable regulations of this Code.
- B. Permitted Accessory Uses. “PA” in a cell indicates that the use is allowed only as accessory or incidental to a permitted principal use. An accessory use is generally designed or employed in conjunction with but subordinate to its primary use.
- C. Conditional Uses. “C” in a cell indicates that in the respective zoning district the

use is allowed only if reviewed and approved in accordance with the procedures in City Code Section 4-8-4, Conditional Uses. Conditional Uses are subject to all other applicable regulations of this Code. A “C” designation does not constitute an authorization or assurance that such use will be permitted. Rather, each Conditional Use Permit application shall be evaluated against the relevant criteria and standards contained within City Code Section 4-8-4(B), and may be approved or denied as the findings indicate appropriate.

- D. Uses Subject to Specific Requirements. “P^x”, “PA^x”, or “C^x” in a cell indicates that the use is subject to specific requirements contained within footnotes at the end of the use table.
- E. Prohibited Uses. A blank cell indicates that the use is not permitted in the respective zoning district.

(Ord. 2018-07, 05/21/2018)

Sec. 3-3. Authorized Uses.

This Zoning Code is an exclusive zoning ordinance wherein the stated uses are the only uses which are permitted in each zoning district. Those uses not listed as permitted or conditionally permitted are not authorized. The question whether a specific use is encompassed by a listed use shall be subject to the Zoning Administrator’s or designee’s reasonable discretion. Further, if a proposed use is not specifically listed within the Land Use Table, the Zoning Administrator or designee shall make a determination as to the zoning classification into which such use should be placed, based upon the most comparable use listed within the table.

(Ord. 2018-07, 05/21/2018)

Sec. 3-4. Land Use Table.

LAND USE TABLE																	
P = Permitted Use		PA = Permitted Accessory Use				C = Conditional Use Permit				Blank = Not Permitted							
RESIDENTIAL USES	NAICS 2012 Code No.	AF	FR	SR	R-1	R-2	R-3	R-4	RO	NB	RTO	CB	GB	MB	I	UMC	U
Dwellings in Residential Zones²																	
Single Family (up to 4 unrelated individuals)		P	P	P	P	P	P	P									
Two Family							P	P									
Twinhome							P	P									
Townhouse ¹							P	P									
Single Family (up to 6 unrelated individuals)		C	C	C	C	C	C	P									
Multiple Family (3 or more units)								P									
Mobile Home Parks								P									
Dwellings in Commercial Zones																	
Above or behind a commercial use or on a secondary street frontage		See above, <i>Dwellings in Residential Zones</i>							P	P		P/C ³	P	P	PA ⁴	P/C ³	P
On the ground floor on primary street frontage									P	C		C	C	C	PA ⁴	C	P
Group Living																	
Boarding House (occupied by owner, up to 6 boarders)		P	C	C	C	C	C	P	See above, <i>Dwellings in Commercial Zones</i>								
Dormitories																	P
Fraternity, Sorority, and Cooperative Houses	721310							C									P
Accessory Uses																	
Accessory Buildings or Structures (up to 1,000 sq ft)		PA	PA	PA	PA	PA	PA ¹⁵	PA ¹⁵	PA								
Accessory Buildings or Structures (1,001 to 1,500 sq ft)		C	C	C	C	C	C	C	C								
Accessory Buildings or Structures (no size limitation)										PA	PA	PA	PA	PA	PA	PA	PA
Accessory Dwelling Unit ¹		PA	PA	PA	PA	PA	PA	PA									
Accessory Home Occupations Type I ¹		PA	PA	PA	PA	PA	PA	PA	PA	PA		PA	PA	PA	PA	PA	PA
Accessory Home Occupations Type II ¹		C	C	C	C	C	C	C	PA	PA		PA	PA	PA	PA	PA	PA
Accessory Gardens		PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA
NON-RESIDENTIAL USES																	
Agricultural Uses																	
Agriculture, Animal Production	112	P/C ¹⁸	C ⁵														P
Agriculture, Crop Production	111	P															P
Animals and Fowl (as permitted by City Code Title 10)		PA	PA	PA	PA	PA	PA	PA	PA								
Animal Slaughtering and Processing	31161	C														P	P
Gardens (Market and Community) no on-site retail sales ¹		P	P	P	P	P	P	P	P	P		P	P	P	P	P	P
With on-site retail sales ¹		P	P	C	C	C	C	C	P	P		P	P	P	P	P	P
Sawmills	321113	C														C	
Amusement and Recreation Facilities																	
Archery/Shooting Ranges (indoor only)	713990											P	P	P	P	P	P
Bowling Centers	713950											P	P	P		P	P
Dance Halls	713990											P	P	P		P	P
Fitness Centers	713940									P		P	P	P		P	P
Golf Courses and Country Clubs	713910	C	C	C	C	C	C	C	C								P
Miniature Golf Facilities	713990											P	P	P		P	P
Movie Theaters	512131											P	P	P		P	P
Riding Stables	713990	C										P	P	P	P	P	P
Stadiums and Sports Arenas (Ice/Roller Rinks, Gymnasiums, Ballfields)	713940							C	C			P	P	P		P	P
Animal-Related Business																	
Veterinary Services	541940	C	C						P	P			P	P	P		
Pet Care Services ¹	812910	C	C							P ¹⁰				P	P		
Financial, Technology, and Professional Services																	
Agencies, Brokerages and Other Insurance Related Activities	5242							P ⁶	P	P	P	P	P	P		P	
Broadcasting Studios	515										P	P	P	P		P	
Business, Professional, Political, Social Advocacy, Grantmaking, and Similar Organizations	8132/8133/8139							P ⁶	P	P	P	P	P	P		P	
Commercial Banking, Credit Unions, and Savings Institutions	522110/120/130											P	P	P			
Construction Contrador Services	238											P	P	P	P	P	
Data Processing, Hosting, and Related Services	518								P	P	P	P	P	P	P	P	P
Professional, Scientific, and Technical Services	541							P ⁶	P	P	P ¹¹	P ¹¹	P	P	P	P ¹¹	P
Publishing Industries (except Internet)	511										P	P	P	P	P	P	P
Real Estate Services	531							P ⁶	P	P	P	P	P	P		P	
Securities, Commodity Contracts, and Other Financial Investments	523							P ⁶	P	P	P	P	P	P		P	
Software Publishers	5112							P ⁶	P	P	P	P	P	P	P	P	
Food and Beverage Service																	
CoffeeEspresso Stand										P		C	C	P		C	P
Drinking Places (Alcoholic Beverages)	722410											P	P	P		P	P
Restaurants	72251								P ⁹	P		P	P	P		P	P

NON-RESIDENTIAL USES	NAICS 2012 Code No.	AF	FR	SR	R-1	R-2	R-3	R-4	RO	NB	RTO	CB	GB	MB	I	UMC	U
Manufacturing																	
Beverage Manufacturing	3121									C		P	P	P	P	P	
Manufacturing, Heavy															C		
Manufacturing, Light													C	P	P	C	
Aerospace Product and Parts Manufacturing	3364										P		C	P	P	C	
Computer and Electronic Product Manufacturing	334										P		C	P	P	C	
Electrical Equipment, Appliance, and Component Manufacturing	335										P		C	P	P	C	
Medical Equipment and Supplies Manufacturing	3391										P		C	P	P	C	
Pharmaceutical and Medicine Manufacturing	3254										P		C	P	P	C	
Public/Institutional Uses																	
Antenna Towers (new)		C	C	C	C	C	C	C	C	C			C	C	C	C	C
Co-Location ¹⁴		P	P	P	P	P	P	P	P	P		P	P	P	P	P	P
Cemeteries	812220	C	C	C	C	C	C	C	C						C		
Child Day Care Services ¹																	P
Family, 5 or fewer children		PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	P
Group, 6 to 12 children		P	P	P	P	P	P	P	P	P	C	C	C	C	C	C	P
Small, 13 to 20 children		C	C	C	C	C	P	P	P	P	C	C	C	C	C	C	P
Large, 21 or more children		C	C	C	C	C	C	C	C	P	C	C	C	C	C	C	C
Civic and Social Organizations	813410												P	P	P		C
Community/Neighborhood Center		C	C	C	C	C	C	C	P	P		P	P	P			P
Correctional Institutions	922140														C	C	
Educational Services ¹	611	C ¹⁹	C ¹⁹	C ¹⁹	C ¹⁹	C ¹⁹	C ¹⁹	C	C	C	C ¹⁶	C	C	C	C	C	P
Fairgrounds		C	C	C	C	C	C	C	C						C		
Funeral Homes and Funeral Services	81221							C	C	P		C	P	P			
Government Office Buildings		C	C	C	C	C	C	C	C	P		P	P	P	P	P	P
Health Care Services (Ambulatory) (excluding 624410)	621								P	P	P ⁵	P	P	P	P	P	P
Hospitals	622											C	P	C			P
Museums and Art Galleries	712110							C	C	P		P	P	P			P
Nursing and Residential Care Facilities	623			C	C	C	C	C	C				P	P			
Public Parks & Recreational Facilities (operated by local government) ⁷		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Public Service and Utility Facilities		C	C	C	C	C	C	C	C	C	C	C	C	C	P	C	P
Religious Facilities	813110	C	C	C	C	C	C	C	C	P		P	P	P	C	C	P
Telecommunications Services ¹	517							P ⁶	P	P	P	P	P	P	P	P	P
Retail and Personal Services																	
Consumer Goods Rental	5322									P		P	P	P	P	P	P
Laundries and Drycleaners	812310/ 812320									P		P	P	P	P	P	P
Personal Care Services	8121								P	P		P	P	P	P	P	P
Retail Sales (excluding 4411, 444, 447, & 453930)	44-45								PA	P	PA	P	P	P	P	P	P
Large Retail Establishment ¹														P	P		
NON-RESIDENTIAL USES	NAICS 2012 Code No.	AF	FR	SR	R-1	R-2	R-3	R-4	RO	NB	RTO	CB	GB	MB	I	UMC	U
Storage Services																	
Self-Storage Facilities	531130	C	C											C	P		
Warehousing and Storage	493										PA ¹²			C	P		
Wholesale Uses	423										PA ¹²			C	P		
Temporary Uses¹																	
Vehicles and Equipment																	
Automobile and RV Dealers	4411											C	C	P	P		
Automotive Repair and Maintenance	8111											C	C	P	P		
Building Material Sales & Garden Equipment/Supplies	444													P	P		
Commercial and Industrial Machinery and Equipment Repair and Maintenance	811310														P		
Electronic and Precision Equipment Repair and Maintenance	8112								P	P		P	P	P	P		
Gasoline Stations	447											C	C	P	P		
Heavy Equipment Sales (manufactured home dealers, farm and garden equipment)	453930 423820													C	P		
Parking Lots and Garages	812930	PA	PA	PA	PA	PA	PA	PA	P	P	PA	P	P	P	P	P	P
Personal and Household Goods Repair and Maintenance	8114									P		P	P	P	P	P	P
Railroad Yards and General Freight Trucking	488210/4841																P
Rental and Leasing Services (excluding 5322)	532											C	C	P	P		
Scrap Yards/Material Recycling	423930																C
Visitor Accommodations																	
Bed and Breakfast Inns		P	P	C	C	C	C	P	P	P		P	P	P			P
Hotels and Motels	721110											P	P	P			P
RV Parks and Campgrounds	721211	C	C					C					P	P	P		P
USE ELEMENTS & EXCEEDANCES TO BULK & DIMENSIONAL REQUIREMENTS		AF	FR	SR	R-1	R-2	R-3	R-4	RO	NB	RTO	CB	GB	MB	I	UMC	U
Drive-Through Facilities ¹												P/C ¹³	C	P			C
Exceedance of maximum building height (for permitted non-residential uses)		C	C	C	C	C	C	C	C	C	C	C	C				C ¹⁷

NOTES
¹ Subject to Specific Use Standards within Section 4-3-4 of this Zoning Code
² Only one principal dwelling permitted per building lot in AF, FR, SR, R-1, and R-2 Zones
³ Residential dwellings located on ground floor on secondary street frontages require a Conditional Use Permit in CB and UMC Zone
⁴ One dwelling unit per lot is allowed where accessory to a permitted principal use
⁵ Feedlots must be on at least 20 acres of land and associated buildings must be set back at least 500 ft from the nearest property line
⁶ Use shall not exceed 2,000 sq ft of office space
⁷ Including all public facilities operated by local government (including but not limited to parks, recreational facilities, and recycling centers)
⁸ Excluding Outpatient Care Centers, Home Health Care Services, and Other Ambulatory Health Care Services (NAICS 6214, 6216, and 6219)
⁹ Restaurants shall not exceed 1,500 sq ft in the RO Zone
¹⁰ Indoor kennels only
¹¹ Excluding Veterinary Services
¹² Indoor storage only
¹³ Drive-up windows permitted for financial institutions only, Conditional Use Permit is required for drive-up windows associated with all other uses in the CB Zone
¹⁴ Antenna shall not extend more than 18 ft above, and shall not project more than 8 ft horizontally away from the existing tower or support structure
¹⁵ Or 600 sq ft per dwelling unit in R-3 and R-4 Zones
¹⁶ Business Schools and Computer and Management Training, and Technical and Trade Schools only, as defined by NAICS code number 6114 and 6115, and excluding aviation and flight training instruction schools, modeling schools, nursing schools, cosmetology schools, and truck driving schools
¹⁷ Residential or commercial uses may obtain a Conditional Use Permit for exceedance of the maximum building height in the UMC Zone
¹⁸ Feedlots with up to 20 animals are permitted by right. Feedlots between 20 and 200 animals require a Conditional Use Permit
¹⁹ Elementary Schools, Secondary Schools, and Other Schools and Instruction only, as defined by NAICS code number 6111 and 6116

(Ord. 2018-07, 05/21/2018)

Sec. 3-5. Specific Use Standards.

A. Accessory Dwelling Units:

1. Applicability and Purpose.

These standards shall apply to Accessory Dwelling Units which are permitted by this Code. These standards are intended to help promote the benefits of Accessory Dwelling Units, while also preserving neighborhood character and creating predictability and certainty for established neighborhoods.

2. Specific Standards.

a. **General.** Accessory Dwelling Units must meet all applicable regulations for the zoning district in which they are located, except as otherwise expressly stated within this Section. Lots that currently do not meet the minimum lot size for a single family dwelling shall be ineligible for an Accessory Dwelling Unit.

b. **Size.** The floor area of the Accessory Dwelling Unit may

not exceed six hundred (600) square feet or forty percent (40%) of the gross floor area of the principal dwelling, whichever is less.

c. **Maximum Occupancy.** The number of persons allowed to reside within an Accessory Dwelling Unit shall be limited to two (2).

d. **Owner Occupancy.**
 i. Prior to the issuance of a building permit for an Accessory Dwelling Unit, the property owner must record a deed restriction upon the property which states that the property owner will reside on the property, within either the principal dwelling or Accessory Dwelling Unit. The deed restriction must be approved by the City Attorney and shall be binding upon the heirs, assigns, and subsequent purchasers of the property.

ii. **Owner occupancy** means a property owner, as reflected in real property records,

who makes his or her legal residence at the property, as evidenced by voter registration or similar means and actually resides at the property for more than six (6) months out of any given year. Owner occupancy may also include a named natural person with an ownership or benefit in a private trust, but shall not extend to corporate trusts.

iii. The Community Development Director may waive this requirement for temporary absences of greater than six (6) months for military service, employment sabbatical, or family medical leave qualified absences. Temporary leave waivers for other reasons must be reviewed and approved by the City Council.

iv. In the event the owner is unable to reside on the property as required herein, only one (1) of the dwelling units on the property may be occupied.

e. Off-street parking. One (1) off-street parking space shall be required for the Accessory Dwelling Unit, in addition to that required for the principal dwelling.

B. Accessory Home Occupations.

1. Purpose.

Accessory home occupations are uses that occur within dwellings and which are accessory and incidental to the principal use of the subject property for residential purposes. It is the intent of this Section to allow accessory home occupations that are compatible with the surrounding neighborhood and land use where the nature of the accessory home occupation use is and remains secondary to the principal use of

the subject property as a dwelling. This Section recognizes that many types of accessory home occupations can be conducted within a residential dwelling with little or no adverse effect(s) on the surrounding neighborhood.

2. Description of Accessory Home Occupation Types.

For the purposes of this Section there shall be two (2) classifications of accessory home occupations as follows:

a. Type I Accessory Home Occupation. A Type I Accessory Home Occupation is a non-residential use conducted solely by the inhabitants of the dwelling within such dwelling unit, or allowable accessory structure thereto; where there are no on-site employees or customer services provided; and where the conduct of the use does not change the character or nature of the dwelling or surrounding area. Examples include, but are not limited to, artists, crafts people, writers, graphic artists, computer programmers and software developers, consultants and similar uses. Private instruction (such as music instruction, private tutoring, other and similar uses) involving no more than four (4) students upon the premises at any one time shall be deemed to be a Type I Accessory Home Occupation.

b. Type II Accessory Home Occupation. A Type II Accessory Home Occupation is a non-residential use conducted by the inhabitants of the dwelling with up to one (1) additional on-site employee, and/or with on-site customer service provided upon

the subject property, and where the conduct of the use does not change the character or nature of the dwelling or surrounding area.

3. Accessory Home Occupation Use Regulations.

a. Allowed Uses. Type I Accessory Home Occupations shall be an allowed use in all residential Zoning Districts, but shall be subject to the performance standards included herein. Type II Accessory Home Occupations shall be a Conditionally Permitted Use in all residential Zoning Districts and shall also be subject to the performance standards included herein.

b. Prohibited Accessory Home Occupation Uses. The following uses shall not be allowed as either a Type I or Type II Accessory Home Occupation, but may otherwise be permitted under this Code:

- i. Animal clinics or kennels;
- ii. Bed and breakfast;
- iii. Boarding house;
- iv. Child Care Facilities;
- v. Dispatch centers, where employees come to the site and are dispatched to other locations;
- vi. Manufacturing utilizing power tools or similar equipment such as furniture refinishing or building, cabinet making, metal fabrication or cutting, employing welding or cutting, or other similar uses, except for minor and incidental use of such equipment deemed allowable by the Zoning Administrator;

- vii. Medical clinics;
- viii. On-site retail sales involving on-premises customer service, except as may be permitted as an accessory use to a Type II Accessory Home Occupation;

ix. Repair or assembly of vehicles or equipment with internal combustion engines (such as automobiles, lawnmowers, motorcycles, snow-mobiles and other similar equipment);

- x. Restaurants;
- xi. Schools;
- xii. Towing services;

and

xiii. Other uses with similar operating characteristics as determined by the Zoning Administrator.

4. Accessory Home Occupation Performance Standards.

a. Outdoor Activities. All activities shall be conducted wholly within the principal structure or a permitted accessory structure thereto. External storage or display of goods or equipment shall be prohibited.

b. Appearance of Structure and Site. The dwelling and subject property shall remain residential in character and the Accessory Home Occupation use shall not be discernable from the exterior of the principal structure or permitted accessory structure thereto. No alterations of the structure or subject property which would change the residential appearance of the dwelling and subject property shall be permitted. Examples of such prohibited alterations include construction of parking lots, paving of setbacks,

external signage not otherwise permitted by this Code, or adding commercial exterior lighting.

c. Vehicles. No more than one (1) vehicle shall be discernable as being used in association with the Accessory Home Occupation. The maximum size of such vehicle used in association with the Accessory Home Occupation shall be no more than one (1) ton capacity and shall not include any trailer.

d. Deliveries. Deliveries and/or pick-ups of supplies or products associated with the Accessory Home Occupation shall be allowed only between 8:00 a.m. and 6:00 p.m. local time.

e. Nuisances. Unless otherwise permitted by law, no Accessory Home Occupation shall produce any detectable fumes, odors, dust, heat, noise, vibration, glare, electro-magnetic field, electrical interference, or other effects outside the dwelling which is incompatible with the characteristics of the residential Zoning District or is otherwise a violation of this Code.

C. Child Care Facilities.

The following standards are required for approval of Child Care Facilities when such uses are classified as permitted uses within zoning districts and shall serve as guidelines to which additional conditions may be added when Child Care Facilities require conditional use permits to operate within a zoning district:

1. Parking and Loading Facilities:
 - a. Child Care Facilities shall provide off-street parking adequate

to meet the requirements of City Code Section 4-6-5.

b. Child Care Facilities shall provide loading spaces in accordance with the following standards:

- i. Quantity of Loading Spaces required:

- (a) Group Child Care: one (1).

- (b) Small and Large Child Care: two (2).

- ii. Required loading spaces may be provided in one of the following ways:

- (a) On-street, subject to the approval of the City Engineer, when the space is reserved or otherwise generally available, and which is located on the same side of the street as the Child Care Facility. On-street loading space shall be at least thirty feet (30') from any street intersection.

- (b) Off-street where the travel path from the loading space(s) to the Facility entrance does not cross vehicle maneuvering and travel areas.

2. Play Area and Screening. Child Care Facilities shall provide a contained or fenced outdoor play area sufficient to comply with the spatial standards required by City Code. Sight-proof fencing or sight-proof landscaping shall be provided on perimeters of such outdoor play areas where necessary to protect the privacy of neighbors' yards.

3. Additional Large Child Care Facility Standards. To ensure that traffic generated by a large Child Care Facility will not disrupt a residential neighborhood

characterized by low volumes of vehicular traffic, such Facilities shall be:

a. Located on City street that has an average daily traffic (ADT) of at least five hundred (500) vehicles per day; or

b. Located within three hundred feet (300') of a school and provide after school service for school age children; or

c. Permitted when the facility is located in a church, grange hall, social center or other large public assembly building; or

d. Upon issuance of a Conditional Use Permit.

4. Site Plan Required. To ensure compliance with these standards, a site plan shall be submitted for all Child Care Facilities indicating parking, loading, traffic flow characteristics and related signage.

5. Use of public right-of-way for Child Care loading is discretionary and subject to the approval of City Engineer in consideration of the availability and demand of on-street parking in the subject area and the proximity of the proposed loading space to intersections, current and future traffic conditions, and other similar considerations.

D. Drive-Through Facilities.

1. Applicability and Purpose. These standards shall apply to establishments that utilize drive-through windows as part of their business operations. These standards are intended to ensure that the design and operation of drive-through facilities provide functional and safe traffic circulation, access, and vehicle queuing. The standards are also

meant to ensure that drive-through facilities are compatible with the surrounding area and minimize their impacts on adjacent uses.

2. Development Standards. Drive-Through Facilities shall comply with the following design standards and requirements.

a. Number of Spaces Required. Drive-Through Facilities with one (1) service window shall provide room for five (5) queuing spaces. When there are two (2) or more service windows provided, there shall be room for four (4) queuing spaces per service window.

b. Size of Space. The dimensions of a vehicle queuing space shall be a minimum of twelve feet (12') in width and twenty feet (20') in length.

c. Turning Radius. The minimum drive-through lane inside turning radius shall be twenty feet (20').

d. Demarcation. Drive-through lanes shall be clearly demarcated with striping or curbing.

e. Additional Queuing. The design, signage or operational characteristics of the Drive-Through Facility shall prevent or discourage vehicles from waiting for service on public sidewalks or streets.

f. Landscaping. Drive-through lanes adjacent to public streets shall provide a landscape buffer of a minimum of three feet (3') in width and shall contain one (1) tree of one and one half inch (1.5") caliper every forty (40) lineal feet and one (1) shrub every six feet (6').

E. Educational Services (Elementary and Secondary Schools).

1. Purpose. The following standards are required to ensure the safety and placement of loading spaces that are intended to serve as student pick-up and drop-off locations for Elementary and Secondary Schools.

2. Loading Standards. Elementary and Secondary Schools shall provide off-street turn-out areas for student pick-up and drop-off, in addition to the required off-street parking found within Section 4-6-2. Loading space shall be provided for at least two (2) vehicles provided in a manner that would not result in a safety hazard to children being picked up or delivered. Such space may be provided in one of the following ways:

a. On-street, when the space is reserved or otherwise generally available, and which is located on the same side of the street as the School. On-street loading space shall be at least thirty feet (30') from any intersection.

b. Off-street, where ingress and egress would not require backing movements by vehicles.

c. Other loading space determined to be safe by the City Engineer considering existing street and traffic conditions and anticipated use of the loading facility.

F. Gardens Market, Community and Accessory.

1. Applicability and Purpose. These standards shall apply to Market Garden and Community Garden uses where such uses are located within SR, R-1, R-2, R-3,

and R-4 Zoning Districts, and shall serve as guidelines where such uses are considered as a Conditionally Permitted Use. These standards are intended to reduce the potential for adverse impacts to adjacent residential uses and to mitigate potential nuisances.

2. Specific Standards.

a. Permitted Accessory Structures. Hoop houses, green houses, shed and other minor accessory structures without permanent foundations and of less than one thousand (1,000) square feet in size shall be permitted in association with the operation of a permitted Market or Community Garden use. If the associated Market or Community Garden use ceases, such structures shall be removed from the property.

b. Hours of Operation.

i. Operation of Market and Community Gardens shall be limited to sunrise or 7:00 a.m. local time, whichever is earlier, and must end at sunset or 9:00 p.m. local time, whichever is later. Operation shall be defined as people engaged in the operation of the use present upon the site.

ii. Where permitted, retail sales shall be limited to the hours of 8:00 a.m. to 7:00 p.m. local time.

iii. Use of motorized equipment shall be limited to 7:00 a.m. to 9:00 p.m. local time.

iv. The pickup of produce by those who have purchased shares, such as a Community Supported Agriculture (CSA), shall be permitted during daylight hours and shall not be considered retail sales.

c. Lighting. Exterior and interior lighting use associated with the operation of a Market or Community Garden shall be limited and shall not result in light trespass or glare upon adjacent residential uses.

d. Use of Machinery. The use of motorized equipment and machinery shall be limited to typical residential scale equipment, except that larger equipment may be used on an infrequent basis during spring and fall preparation activities.

e. General Nuisance Prohibition. Operation of Market and Community Gardens shall be conducted in a manner so as to limit dust, noise, drainage, overspray of chemicals, or smells that would constitute a public nuisance.

f. Signage. Signage advertising and/or identifying a permitted Market or Community Garden use shall be allowed as provided within the City Sign Code.

g. Keeping of Animals. The keeping of animal and fowl in association with a Market Garden shall be permitted per the animal regulations of City Code.

h. Off-Street Parking. In order to preserve the residential character of neighborhoods, no Off-Street Parking shall be required for Market and Community Gardens. Any Off-Street Parking provided for Market and Community Gardens shall be limited in nature and shall not be fully improved or paved. Grassed or small graveled seasonal parking areas shall be permitted.

i. Exceedance of Standards. These standards may be exceeded with approval of a Conditional Use Permit.

G. Large Retail Establishments. Large Scale Establishments.

a. New Large Retail Establishments. Every new Large Retail Establishment shall comply with the provisions of this Section and the City of Moscow Large Retail Establishment Design Manual (Design Manual), as adopted or amended by Resolution of the Council. Any substantive deviation from a standard required by the Design Manual shall require a Variance.

b. Expansion of Existing Large Retail Establishments. The following is required for expansion(s) of a Large Retail Establishment:

i. Any one (1) time expansion of an existing Large Retail Establishment shall comply with Subsection (4)(d) Stormwater Management (for any proposed additional impervious surface areas). Additionally, the provisions of the Design Manual shall apply to the greatest extent feasible in consideration of the existing site development, as determined by the reviewing body.

ii. Conditions of Reconstruction. If any existing Large Retail Establishment should be destroyed by any means to an extent of more than seventy (70%) percent of the replacement cost of the whole structure at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Design Manual (to the greatest extent

feasible in consideration of the existing site development, as determined by the Zoning Administrator).

c. Large Retail Establishments that includes less than one hundred forty (140) parking stalls shall not be subject to Section 2.2, Parking Lots, of the Design Manual.

d. Large Retail Establishments Greater Than Sixty Five Thousand (65,000) Square Feet. In addition to other requirements contained in the Design Manual, every application for a new Large Retail Establishment of greater than sixty five thousand (65,000) square feet of gross floor area or any application for the expansion of more than thirty percent (30%) of any existing Large Retail Establishment, where such expansion would result in the creation of a Large Retail Establishment of greater than sixty five thousand (65,000) square feet of the gross floor area, shall address and include all of the following items:

i. Site location and existing and future streets and pathways. The applicant shall show, as part of the application, that the proposed development does not preclude the logical and orderly extension of existing public streets and pathways and does not preclude the development of future planned streets and pathways, as generally identified within the City's Comprehensive Plan.

ii. Multimodal Traffic Study. The applicant shall provide

a Traffic Impact Study (including pedestrian, bicycle, transit and motorized travel) in accordance with City Traffic Impact Study Standards. Such Traffic Impact Study shall include an assessment of the impacts of the proposed development upon vehicular, pedestrian, bicycle and transit transportation systems and services anticipated in the vicinity of the development for twenty (20) years from the anticipated date of completion of the proposed development. Such Traffic Impact Study shall include an analysis of all proposed measures to mitigate impacts of the proposed development. All Traffic Impact Studies shall be reviewed and approved by the City Engineer.

iii. City Services and City Infrastructure Impact Assessment. The applicant shall provide a public utility service impact analysis of the proposed use and its anticipated impacts upon the City's physical infrastructure and the service delivery of essential City services including water, sanitary sewer, storm sewer, police, fire and sanitation services. Such assessment shall include an analysis of the proposed development's anticipated service demand, adequacy of existing service infrastructure, and an assessment of the impacts the proposed use may have upon other users and the service provider. Such analysis shall also include any potential and proposed measures necessary to mitigate such impacts. Payment of costs for increasing service capability and/or over-sizing or upgrading of

service infrastructure, as necessary to mitigate the impacts of the proposed development, shall be the responsibility of the applicant. All City services impact studies shall be reviewed and approved by the City Engineer.

iv. Stormwater Management. Stormwater runoff shall not be discharged into the public storm sewer system or into any natural drainage system, without being detained in accordance with this Code and without being treated to the most current quality standards, as prescribed by the Idaho Department of Environmental Quality in the catalog of Stormwater Best Management Practices for Cities and Counties. Stormwater facilities shall be designed to detain and release stormwater at a rate that shall not exceed the pre-development stormwater discharge rates for the two (2) year storm, ten (10) year storm, and twenty-five (25) year storm events and shall be designed as treatment train systems (i.e. multiple devices and/or methods to improve water quality and increase evaporation). Treatment trains shall include a vegetative primary treatment component, such as a bio-filtration swale, filter strips, or other similar devices. The level of water quality treatment shall be designed for two (2) year storm event post development flows. Stormwater facilities shall be aesthetically pleasing amenities consistent with Design Manual Central Features and Community Spaces Guidelines and Standards. Regionally viable vegetation shall

be planted inside open earthen detention ponds. Above ground detention vaults or ponds with slopes greater than three to one (3:1) or those containing vertical walls shall be provided with a six foot (6') high fence or wall at the top of the slope for security and safety purposes. A type "B" landscape buffer yard, as described in this Zoning Code, shall be required around the outside perimeter of the fence or wall. Storage, display, or sale of chemicals, pesticides, fertilizers, liquid petroleum and any product containing any chemical listed in the Code of Federal Regulations Title 40, Chapter 1, Subpart d, Part 131.369, as amended, shall be prohibited in areas not protected from weather (such as parking lots) and from areas not located or designed to prevent contamination of stormwater runoff. All stormwater management plans shall be reviewed and approved by the City Engineer.

v. Standards for Materials Submitted. Each study, report, analysis, certification, or assessment required by the City or offered by the applicant shall be paid for by the applicant and shall be conducted by professionals educated, trained and experienced in the appropriate field and shall be mutually agreed upon by the applicant and the City.

e. Community Meeting Required. All proposed new Large Retail Establishments and expansions of existing Large Retail Establishments greater than thirty percent (30%) of the existing gross floor area shall require a

community meeting in accordance with the following requirements:

i. Meeting Purpose. The purpose of the community meeting is to allow the applicant for a Large Retail Establishment to present the proposed development to the community and other members of the public prior to consideration by the City so that the parties can discuss and consider neighborhood and community impacts, mitigation, design and construction elements, and the like. Conduct by all participating in the community meeting should be respectful, should avoid personal attack, and should be directed toward gathering and exchanging information regarding the proposal(s).

ii. Meeting Notice and Location. Notice of a community meeting shall be given to all property owners within six hundred feet (600') of the subject property, shall be posted upon the subject property of a size and location that renders such notice visible and legible to persons in the vicinity of the subject property, published in the local newspaper and provided to local media. Such notice shall be provided at least fourteen (14) days before the community meeting. Mailed notice shall be made by U.S. mail to the current or last known property owners of record as determined by review of the records in possession of Latah County. Alternatively, the City may provide a list of property owners to the applicant upon request and receipt of the appropriate fee.

The community meeting shall be set at a date, time, and place reasonably calculated to facilitate the attendance of the public. Evening meetings during the work week are encouraged.

iii. Meeting Content and Conduct. The applicant or applicant's representative shall chair and conduct the meeting according to orderly procedures. The chair should provide the participants in the community meeting a fair chance to be heard. The chair will have the authority to recognize participants in the meeting and to maintain order in the conduct of the meeting. Formal rules of evidence will not apply during the meeting but the chair may limit the duration of comments or presentation where necessary to give the broadest number of participants the opportunity to express their views. Each meeting shall be conducted so that those in attendance can discuss the project/proposal which is the subject of the application(s) to be filed. Where more than one (1) application is to be considered, the meeting shall include discussion of all related matters. For example, where there is to be a submittal for a rezoning along with the Large Retail Establishment, both shall be thoroughly discussed in the community meeting and shall satisfy any Neighborhood Meeting requirement of this Code.

iv. Submission of Meeting Materials Required. Where community meetings are required, the following community meeting materials shall be submitted with the application(s).

(a) Time, date and location of the community meeting,

(b) Names and addresses of property owners to whom notice was sent,

(c) Names and addresses of all attendees,

(d) Summary of comments, suggestions and discussion,

(e) Applicant’s response to comments, suggestions and discussion, including any modifications made or intended to be made to the project proposal/application as a result of the community meeting comments,

(f) Materials utilized or submitted (including plans, proposals, designs, power point presentations, maps, handouts, petitions, letters, studies, etc.) shall be submitted with the application for the related project(s).

A verbatim transcript is not required nor is a video and/or audio tape (unless the applicant wishes to submit it). The summary of comments, suggestions and discussion should be extensive enough to allow the reader to understand what occurred.

f. Design Manual Review. All applications for new Large Retail Establishments and expansions of existing Large Retail Establishments shall be reviewed by the Zoning Administrator for conformance to the standards and requirements of the Design Manual. The Zoning Administrator shall review the site plan, landscape plan, and

architectural building plans and building elevations for conformance with the requirements of the Design Manual.

i. Alternate Compliance Methods. The Zoning Administrator shall be authorized to approve alternate compliance methods to meet the purposes and intents of the specific requirements of the Design Manual where the Zoning Administrator finds such alternate compliance methods are in keeping with the intents and purposes of the Design Manual and where such alternate compliance methods will achieve equivalent or superior mitigation of impacts of the proposed Large Retail Establishment or its expansion.

ii. Design Review Decision. Upon completion of the design review, the Zoning Administrator may approve the proposed development, approve the proposed development with conditions of approval related to specific requirements of the Design Manual, or deny the proposed plans with specific direction to the applicant regarding what specific elements of the development plans must be modified to comply with the Design Manual.

iii. Design Review Decision Appeal. Appeals or design review decisions by the Zoning Administrator shall be made to the Council.

H. Telecommunications Facilities.

1. Applicability.

This Section shall apply to antenna towers, antenna support structures, antennas and their

ancillary facilities (telecommunications facilities) any of which are used to provide commercial telecommunications services. This Section shall not apply to noncommercial antenna towers exclusively used as accessory to a residential use on the same lot.

2. Purpose.

The provisions of this Section are intended to ensure that telecommunications facilities are located, installed, maintained and removed in a manner that:

- a. Minimizes the number of antenna towers throughout the community;
- b. Encourages the co-location of telecommunications facilities;
- c. Encourages the use of existing buildings, light or utility poles, water towers or other structures for antenna mounting and discourages construction of new antenna towers;
- d. Ensures that telecommunications facilities are located and designed to minimize visual impact on the surroundings.
- e. Ensures that regulation of telecommunications facilities does not have the effect of prohibiting the provision of telecommunications services, does not unreasonably discriminate among functionally equivalent providers of such services, and allows the provision of adequate area coverage by such services.

3. Definitions.

a. *Ancillary Facilities.* Buildings, cabinets, vaults, enclosures, equipment, and the like

required for operation of telecommunications systems.

b. *Antenna.* Any device that transmits and/or receives radio waves, microwaves, or other electro-magnetic radiation for voice, data or video communications purposes including, but not limited to, television, AM/FM radio, microwave, cellular telephone and similar forms of communications.

c. *Antenna Support Structure.* Any structure or building not constructed primarily for the purpose of supporting an antenna but that supports an antenna as a secondary or accessory use.

d. *Antenna Tower.* Any structure or pole erected primarily for the purpose of supporting one or more antennas that are used to provide commercial wireless communications or telecommunications services.

e. *Antenna Tower Height.* The overall vertical length of the antenna tower above ground level.

f. *Co-location.* Placement of one or more antenna(s) on an antenna support structure or the placement of an antenna on an antenna tower on which one or more antennas are already located.

g. *Lattice Tower.* An antenna tower characterized by a framework of lateral or diagonal cross members that stabilize the tower.

h. *Monopole.* An antenna tower that consists of a single upright pole, which is self-supporting and without supports or guys.

i. *Telecommunications facilities.* Antenna towers, antenna support structures, antennas and their ancillary facilities that are used to provide commercial wireless communications or telecommunications services.

j. *Temporary Antenna Tower.* An antenna tower established for the purpose of providing tele-communications services on a temporary basis for a special event or to temporarily replace an antenna tower while it is being repaired.

4. Use Regulations

a. The installation of lattice towers is prohibited except lattice towers that qualify and are permitted as temporary antenna towers. Replacement, relocation or alteration of non-conforming lattice towers shall be subject to the Nonconformity Regulations in Section 4-1-6 of this Zoning Code.

b. A Conditional Use Permit shall be required before the installation, relocation, replacement, and/or alteration of an antenna tower that exceeds thirty-five feet (35') in height.

c. Co-location shall be a permitted use if the property upon which such antenna is located is within one of the following Zoning Districts: U, RO, NB, RTO, CB, GB, MB, or I. An antenna may be co-located as a permitted use on existing antenna towers and antenna support structures in all zoning districts if the antenna extends no more than eighteen feet (18') above, and projects no more than eight feet (8') horizontally away from the existing tower or support structure. Co-location

shall also be a permitted use on nonconforming antenna towers if the antenna extends no more than eighteen feet (18') above, and projects no more than eight feet (8') horizontally away from, the nonconforming antenna tower.

d. A temporary antenna tower as defined herein shall be a permitted use in all zoning districts, subject to site plan approval by the Zoning Administrator. The duration of the temporary antenna tower at the site shall not exceed the special event time or the time reasonably needed to repair the antenna tower in need of repair.

5. Development Standards

a. Antenna Tower Setback from Highway Right-of-Way.

No antenna tower that exceeds sixty feet (60') in height shall be permitted within five hundred feet (500') of US Highway 95 and/or State Highway 8 rights-of-way unless the proposed site is in the U, MB, or I Zoning District, in which case the antenna tower shall be set back a minimum of one hundred feet (100') from said right-of-way.

b. Security.

Every telecommunications facility shall be protected from unauthorized access by appropriate security measures.

c. Lighting.

Every antenna and antenna tower shall not be lighted unless required by the Federal Aviation Administration or other state or federal agency having such authority, and such lighting shall

not be more than the minimum required by such agency.

d. Noise Reduction.

In any SR, R-1, R-2, R-3, or R-4 Zoning District, and in all other Zoning Districts when the adjacent property is zoned SR, R-1, R-2, R-3, or R-4 or occupied by a dwelling, hospital, school, library, or nursing home or similar use, noise generating equipment shall be sound-buffered by means of baffling, barriers, or other suitable means to reduce sound level measured at the property line to forty five decibels (45 dB).

e. Signage.

The placement of signage on antenna towers is prohibited, except for the placement of security signage, which shall not exceed six (6) square feet on each side of the antenna tower and shall not be located higher than six feet (6') above grade. Additionally, one security sign not to exceed one (1) square foot may be provided on each fifty feet (50') of wall or fence enclosing the facility.

f. Antenna towers shall be separated from the property line of any adjacent property zoned SR, R-1, R-2, R-3, or R-4 at least a distance equal to the height of the antenna tower, and shall be separated from all other adjacent property lines at least a distance equal to one-half (1/2) the height of the antenna tower.

g. Aesthetic Considerations.

i. Antenna towers shall be painted a neutral color consistent with the natural or built environment of the subject site and the surrounding area unless

otherwise required by the Federal Aviation Administration or any other State or Federal agency having such authority.

ii. Equipment shelters or cabinets shall have an exterior finish compatible with the natural or built environment of the subject site and the surrounding area and shall also comply with any design guidelines applicable to the particular zoning district in which the facility is located.

iii. Antennas and cables shall be of a color identical to or closely compatible with that of the structure to which they are attached unless otherwise required by the Federal Aviation Administration or any applicable state or federal agency. Telecommunications facilities located above ground in or directly adjacent to any SR, R-1, R-2, R-3, and R-4 Zoning Districts shall be surrounded by a minimum six-foot (6') high decorative wall constructed of brick, stone, or textured concrete block. Said wall shall be surrounded by a Type "A" Landscape Buffer Yard planted adjacent to said wall or fence or at an alternate location providing equal or better buffering. Telecommunications facilities in all other Zoning Districts shall be surrounded by a minimum six-foot (6') high wall or solid or slatted fence. Said fence or wall shall be surrounded by a Type "A" Landscape Buffer Yard planted adjacent to said wall or fence or at an alternate location providing equal or better buffering.

iv. Vehicle or outdoor storage on any antenna tower site is

prohibited unless otherwise permitted by the Zoning District in which the tower is located.

v. At least one (1) on-site parking stall with a vehicle turnaround area shall be provided at each antenna tower site. The parking area and driveway to it shall consist of asphalt, concrete, or gravel.

vi. Ancillary facilities located above ground for antennas in or directly adjacent to any SR, R-1, R-2, R-3, or R-4 Zoning District shall be set back a minimum of twenty-five feet (25') from any SR, R-1, R-2, R-3, or R-4 zoned property, unless the applicant can demonstrate that the specific proposal will present no greater adverse visual and audio impacts to surrounding properties. Above ground ancillary facilities in any other Zoning District shall be located a minimum of fifty feet (50') from any SR, R-1, R-2, R-3, or R-4 zoned property, unless the applicant can demonstrate that the specific proposal will present no greater adverse visual and audio impacts to surrounding properties.

6. Co-Location

a. Existing Antenna Towers.

Prior to the issuance of any permit to relocate, alter or modify any antenna tower, the tower owner shall provide to the City a notarized written commitment to make said antenna tower available for use by others subject to technical and structural limitations and reasonable financial terms. The failure of an antenna tower owner to agree to shared use or to negotiate in good

faith with potential users shall be unlawful and, among other remedies of the City, shall be just cause for the withholding of the issuance of future antenna tower permits to such an owner as well as revocation of antenna tower permits for any antenna tower on which co-location is refused or unreasonably hindered.

b. New Antenna Towers.

Any new or relocated antenna tower eighty feet (80') or greater in height shall be designed and constructed to accommodate at least two (2) additional users unless a larger number of users needs to be accommodated as indicated by the response to the Notice provisions herein. As an alternative, a smaller tower may be approved if the tower owner commits in writing to "swap out" to a larger tower when needed to allow co-location space for additional service providers. A notarized written commitment to shared use as specified in Subsection 6.a. above shall be submitted to the Zoning Administrator by the antenna tower applicant. The failure of the owner of an antenna tower built with a capacity for shared use to negotiate in good faith with potential users shall be unlawful and shall be a violation of this Ordinance and, among other remedies of the City, shall be just cause for the withholding of the issuance of future antenna tower permits to such an owner as well as revocation of antenna tower permits for any antenna tower on which co-location is refused or unreasonably hindered.

c. Antenna Tower Inventories.

Prior to the issuance of any permit to install, relocate, replace or alter any antenna tower, the tower owner shall furnish the Zoning Administrator an inventory of all of the owner's antennas and antenna towers in the City of Moscow and the Area of City Impact. The inventory shall include the reference name or number, or other description of location including a site map(s), structure type, height, type of antenna tower(s) or antenna support structure(s) and height of all existing antennas and an assessment of available ground space for the placement of additional equipment shelters for potential future users.

d. Notice of Antenna Tower Permit Applications.

The applicant for any antenna tower permit shall have a copy of the application and a summary containing the height, design, location, type and frequency of antennas delivered by certified mail to all known and potential antenna tower users as identified by a list maintained by the Community Development Department. Proof of such delivery of the summary shall be submitted with the permit application to the City. Such notification shall be so mailed no less than sixty (60) days prior to Zoning Administrator decision or Board of Adjustment public hearing and shall specifically solicit co-location discussion between the applicant and recipients of the notice. The

Zoning Administrator may establish a form required to be used for such notifications. Upon request, the Zoning Administrator shall place on a list the name and address of any user or prospective user of antenna towers to receive notification of applications. The failure of the party receiving such Notice to use this process or respond to any such Notice may be considered cause for denying requests by such party for antenna tower permits. Such response shall be provided in writing to the Zoning Administrator within forty-five (45) days of mailing and shall contain a statement specifying desire to co-locate on the applicant's proposed tower and a statement regarding the responder's ability to accommodate the needs of the applicant on an existing tower or support structure owned or operated by the responder. Additionally, the Zoning Administrator shall cause notice of any required public hearing for a proposed antenna tower to be mailed to owners of property within six hundred feet (600') of the permit application site not less than sixty (60) days prior to the public hearing.

7. Permits Required

A building permit shall be required to construct, install, relocate, replace, or alter any antenna tower. An administrative zoning permit shall be required to locate or replace any antenna on an antenna tower or antenna support structure. A Conditional Use Permit shall be required as specified in Section 4 herein.

An application for any of the above-mentioned permits shall include or be accompanied by all of the information necessary to determine and document compliance with the regulations established herein. Where no application or permit form exists, the application shall be in the form of a letter signed and dated by the applicant, and the permit issuance shall be in the form of a letter of approval signed and dated by the Zoning Administrator or a dated signature by the Zoning Administrator on the applicable site plan.

Specific permit application submittal requirements shall be determined by the Zoning Administrator and may include, but are not limited to, the following:

- a. Permit application.
- b. Site plan.
- c. Elevation drawing(s) of the antenna tower or antenna support structure, antenna(s) and ancillary facilities.
- d. Description of proposed and required lighting including light locations. Documentation of required lighting, as specified in Section 5.c. herein, may be deferred until prior to issuance of building permit if not available at time of application submittal.
- e. Any plans necessary to depict structural requirements.
- f. Description of the number and types of antennas being proposed, as well as the expected or known capacity of the antenna tower in terms of the number of antennas the antenna tower can accommodate.

g. Antenna tower or antenna location study specifying the search process by which the proposed site was chosen.

h. Antenna tower inventory as specified in Section 6.c. herein.

i. Notarized written commitment to allow co-location/shared use as specified in Section 6. herein.

j. Documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIER) or radio frequency (RF) emissions standards as established by the Federal Communications Commission (FCC). Such documentation may be deferred until prior to issuance of building permit if not available at time of application submittal.

k. Current FCC license to operate.

l. Documentation of a review by the Federal Aviation Administration (FAA) and/or the Aviation Division of the Idaho Transportation Department (ITD). Such documentation may be deferred until prior to issuance of building permit if not available at time of application submittal.

m. Name and address of the property owner, telecommunications service provider, and owner of the telecommunications facility on the permit application, and a written statement of approval of the application by the property owner.

n. Description of proposed security measures as required in Section 5.b. herein.

8. Findings for Conditional Use Permit.

Before a Conditional Use Permit for an antenna tower may be issued, the applicant must demonstrate, and the Zoning Board of Adjustment must find, compliance with all of the following:

a. No existing antenna towers or antenna support structures within the necessary geographic area for the applicant's antenna tower meet the applicant's requirements considering (a) height, (b) structural integrity, or (c) that there are other prohibitive conditions that render existing antenna towers or antenna support structures within the applicant's required geographic area unsuitable.

b. That the design of the antenna tower, including the antennas and ancillary facilities, minimizes visual impact and otherwise complies with provisions and intent of this Section.

c. That the proposed antenna tower location minimizes the number and/or size of antenna towers or antenna support structures that will be required in the area.

d. That the applicant has not previously failed to take advantage of reasonably available shared use opportunities or procedures provided by this Ordinance or otherwise.

These findings shall be required in addition to those required for the Reasoned Statement of Relevant Criteria and Standards provided in Section 4-8-4 of the Zoning Code.

9. Abandonment and Removal.

All telecommunications facilities shall be removed by the owner of the facility, by the operator of the facility, and/or by the property owner within six (6) months of the time that the facility has substantially ceased being used to provide telecommunications services to the public. Removal shall not be required when the owner or operator of the facility has, within the aforementioned six (6) months, filed with the City a written request to reuse the antenna tower and the City has approved such request. Such written request shall detail the circumstances that justify why the antenna tower should not be removed, why it will be unused for six (6) months or more, and shall commit to a date certain, not to exceed twelve (12) months from the date of last use, by which time the antenna tower will again provide telecommunications services to the public. Before issuance of an antenna tower permit, the applicant for any antenna tower permit shall provide to the City financial security, such as but not limited to an open-ended bond, to ensure removal of the antenna tower and ancillary facilities after the facility is no longer being used to provide telecommunications services to the public.

10. Affirmative Duty to Keep City Informed.

All telecommunications service providers having telecommunications facilities in the jurisdiction of the City shall be required to report in writing to the Zoning Administrator any change

in the status of their operations. Change in status shall include, but is not limited to, the following:

- a. Change in or loss of license from the FCC to operate.
- b. Receipt of notice of failure to comply with the regulations of any other authority having jurisdiction over the business or facility.
- c. Change in ownership of the company that owns the telecommunications facilities or that provides telecommunications services.
- d. Loss or termination of lease with the property owner or the owner of the telecommunications facilities.
- e. Abandonment of a facility or non-use of a facility for a period of six (6) months or longer.

All telecommunications service providers having facilities in the jurisdiction of the City shall file with the Zoning Administrator an annual written statement verifying continued use of each of their facilities in the City’s jurisdiction as well as continued compliance with state and federal agency regulations.

I. Temporary Uses.

1. Applicability and Purpose. It is the intent of this Section to allow Temporary Uses upon developed or undeveloped commercial property within the City, subject to the following standards. These standards are intended to reduce the potential traffic, parking, safety, and nuisance issues associated with the short term nature of Temporary Uses.

2. Specific Standards.

a. Site Access. Vehicular ingress and egress from the subject property shall be from an established vehicular approach or a temporary approach as approved by the City Engineer. Approaches shall be clearly identified and delineated and shall not present a traffic hazard to the adjacent roadway as determined by the City Engineer.

b. Site Circulation. Vehicular circulation shall be delineated and maintained on the subject property in order to reduce the risk of vehicular conflicts and ensure orderly circulation.

c. Setbacks. All temporary structures shall meet the minimum yard setback requirements of the underlying zoning district.

d. Vision Triangle. All temporary structures shall be located outside of street intersection sight triangles. All displays, goods, or objects placed within street intersection sight triangles shall be in accordance with the City Standard Construction Specifications and drawings as adopted by the Council.

e. Duration. Each Temporary Use may not exceed forty-five (45) days per calendar year,

f. Nuisances. A Temporary Use shall not result in dust, noise, tracking of dirt in the public right-of-way, or other nuisances generated upon the subject property.

3. Permit Required. A Temporary Use Permit shall be required for any Temporary Use

conducted on an undeveloped property or a property which does not have an existing developed parking area.

J. Townhouses.

1. Building Development Standards.

a. Building Orientation and Front Entry Feature. The front and main entrance of all townhouse units shall be oriented toward and shall face the adjacent public street.

b. Front Entry Feature. Townhouse units shall include a porch or stoop entry feature that clearly establishes the location of the principal entry of the townhouse unit and the orientation of the unit to the adjacent public street. This shall be accomplished through the provision of one of the following elements:

- i. covered front porch feature of no less than four feet (4') in depth and six feet (6') in width;
- ii. covered front stoop of no less than four feet (4') in depth and four feet (4') in width; or
- iii. any other significant entry feature deemed equivalent by the Zoning Administrator.

c. Façade and Roof Line Articulation. Townhouses should be designed as a unified building mass with common architectural styling and details. The building mass shall be varied by material and color variations, shifts in roof profiles and variation at corner units. Individual units shall be expressed through façade articulation or vertical divisions between individual units and through roof structure variation

that expresses the individuality of each unit.

d. Fenestration.

Townhouse units shall include door and/or window openings upon all front and exterior side walls to provide adequate natural light, provide architectural detailing, and to enhance security upon adjacent sidewalks and streets. Windows and doors shall occupy no less than ten percent (10%) of front wall and exterior side wall areas.

e. Building Height.

Maximum building height shall be as specified within the applicable Zoning District.

f. Unit Grouping and Spacing. Townhouse buildings shall contain no more than eight (8) contiguous units. Spacing between townhouse buildings shall be no less than sixteen feet (16'). Spacing between townhouse buildings shall include a four foot (4') wide pedestrian easement and sidewalk joining the alley, or rear of the townhouse development, to the public sidewalk adjacent to the front public street.

2. Parking and Access.

a. Street Access. Rear vehicular access to townhouse developments via an existing public alley or a private drive within the townhouse development is preferred; however, front vehicular access can be allowed in accordance with the standards herein.

b. Curb Cut Minimum Spacing. Curb cut spacing shall be no less than twenty-four feet (24') apart, as measured from the two closest points of the curb cuts.

Front loaded townhouse units curb cuts shall be no more than twenty feet (20') in width and such curb cuts shall be used to serve the two (2) adjacent units. Curb cuts for private drives that provide access to rear loaded townhouse units shall be no more than twenty-four feet (24') in width.

c. **Garage Design.** The garage door on front loaded townhouse units shall occupy no more than sixty percent (60%) of the townhouse unit width. Front loaded garage doors shall be recessed from the surrounding structure and shall include design features and windows that complement the townhouse design and shall be painted to match the townhouse unit served by such garage.

d. **Guest Parking.** Townhouse developments of more than twenty-four (24) units shall provide off-street guest parking at the rate of one (1) stall per each four (4) townhouse units. Such guest parking shall be located within the required spacing between townhouse buildings or at the rear of the townhouse buildings.

3. **Open Space Requirements.** Open space shall be provided as follows:

a. **Private Open Space Requirement.** Each townhouse unit shall provide a minimum of one hundred eighty (180) square feet of functional open space which may be provided via a private yard, balcony, deck, roof garden or patio area. The smallest dimension of

such open space shall not be less than eight feet (8') and fencing or other privacy screening shall be provided between adjacent private open space areas. The required front entry feature and required front yard area shall not be used to satisfy the private open space requirement.

b. **Common Open Space Requirement.** Townhouse developments of more than twenty-four (24) units shall provide functional common open space of seventy-five (75) square feet per unit. Such common open space shall be of a functional size, the smallest dimension of which shall not be less than thirty feet (30') and shall include landscaped and turf areas and shall include at least two (2) different furnishings such as benches, picnic tables, children's play equipment or other similar items.

4. **Landscaping.** All townhouse projects shall include aesthetically pleasing landscaping material within the required front and street side yard areas of sufficient quantity to buffer and soften the building massing. Such landscaping shall include a combination of trees, shrubs and other landscaping materials. Plans for such landscaping shall be required as part of the building permit application and shall be subject to approval of the Zoning Administrator.

(Ord. 2010-24, 11/15/2010; 2011-15, 09/19/2011; 2012-23, 12/03/2012; 2013-15, 08/19/2013; 2015-06, 04/06/2015; 2015-07, 05/04/2015; 2018-07, 05-21-2018).

Sec. 3-6. Limitations on Uses Table.

LIMITATIONS ON USES															
	FR	SR	R-1	R-2	R-3	R-4	RO	NB	RTO	CB	GB	MB	I	UMC	U
All uses other than dwellings:															
No more than 35% of lot area shall be covered by buildings			X	X	X	X									
Off-street parking shall not be located in required front or street side yards			X	X	X	X									
Type-A landscape buffer shall be provided along any property line abutting property zoned SR, R-1, R-2, or R-3			X	X	X	X									
All uses shall be conducted wholly and entirely within enclosed buildings, except:															
Building material yards												X			
Car washes												X			
Drive-in theaters, miniature golf courses, commercial amusement parks and similar uses												X			
Gasoline service stations												X			
Kennels												X			
Landscape supply yards												X			
Market Garden, Community Garden, Accessory Garden							X	X				X			
Movable displays incidental to the major usage, except that such displays shall be confined to privately owned property												X			
Outdoor advertising structures												X			
Outdoor dining areas for restaurants							X	X				X			
Outdoor play areas necessary for schools or daycares							X	X							
Parking and loading areas							X	X				X			
Public utility installations												X			
Sales display areas for automobiles, mobile homes, trailers, boats and heavy duty equipment												X			
Temporary uses, as permitted by this Code												X			
All products made incidental to a permitted use which are manufactured, fabricated, processed or treated on the premises shall be sold primarily on the premises	X									X	X				
Uses, buildings and structures that utilize electricity and/or water and are accessory to a single family or duplex residence shall be serviced by the same electrical and/or water meter as the single family or duplex residence. The Zoning Administrator may allow separate meters in the event that the distance between the principal use and the accessory use is determined to be exceptionally long.	X	X	X	X	X	X									
FR SR R-1 R-2 R-3 R-4 RO NB RTO CB GB MB I UMC U															
Off-street parking areas associated with a principal structure on a lot shall be located behind or to the side of the principal structure that it serves. No off-street parking shall be located between the principal structures and the adjacent principal public street or pedestrian walkway.															X
Operations conducted on the premises shall not constitute a nuisance beyond the property lines by reason of smoke, fumes, odor, steam, gasses, vibration, noise, hazards, or other causes									X	X	X				X
Gasoline stations: pump islands shall not be closer than fifteen feet (15') to any street, property line, or public right-of-way												X	X		
Accessory buildings customarily incident to any of the permitted uses shall be located on the same site with the principal building												X	X		
Accessory structures encroaching into the minimum rear yard setback shall not occupy more than fifty percent (50%) of the area of the required rear yard for the parcel	X	X	X	X	X	X	X	X	X						
Uses specifically not permitted:															
Uses involving the use of machinery out of doors that generate significant noise, dust or odors									X						

(Ord. 2018-07, 05/21/2018)

Sec. 3-7 Performance Standards.

Any dissemination incident to a permitted use shall comply with the standards established in this Section.

- A. Unless otherwise permitted by Title 10, Section 11 of this Code, the noise emanating from a premise used for industrial activities shall be muffled so as to not become objectionable due to intermittent beat, frequency or shrillness, and where an industrial use adjoins a residential zoning district, the noise loudness measured at the boundary line shall not exceed forty (40) decibels between the hours of eleven thirty (11:30) p.m. and six (6:00) a.m., local time, and sixty (60) decibels at other hours.
- B. Arc welding, acetylene torch cutting or similar processes shall be performed so as not to be seen from any point beyond the outside of the property.
- C. In terms of fire and safety hazards, the storage and handling of inflammable liquids, liquefied petroleum, gases and explosives shall comply with rules and regulations falling under the jurisdiction of the City Fire Chief, the laws of the State and other local ordinances.
Bulk storage of inflammable liquids below ground shall be permitted, and the tank shall be located not closer to the property line than the greatest dimension (diameter, length or height) of the tank.
- D. Provisions must be made for necessary shielding or other preventative measures against interferences occasioned by mechanical, electrical, electronic and nuclear equipment, uses or processes with electrical apparatus in nearby buildings or land uses.
- E. The emission of obnoxious odors of any kind shall not be permitted nor the emission of any toxic or corrosive fumes or gases. Dust created by an industrial operation shall not be exhausted or wasted into the air.
- F. The emission of smoke or particulate matter of a density equal to or greater than number three (3) of the Ringelmann Chart as currently published and used by the U.S. Bureau of Mines, is prohibited at all times.
Dust and other types of air pollution borne by the wind from such sources as storage areas and roads, shall be minimized by appropriate landscaping, paving, oiling or other acceptable means. Emission of particulate matter in excess of two-tenths (0.2) grain per cubic foot of conveying gas or air measured at any property line, is prohibited.
- G. Smoke or emission rates: The rate of emission of particulate matter from all sources on any property shall not exceed a net weight of one (1) pound per acre of property during any one (1) hour.
- H. Liquid and solid wastes: Storage of animal or vegetable waste which attract insects or rodents or otherwise create a health hazard, shall be prohibited. No waste products shall be exposed to view from eye level from any property line.
- I. Open storage: All storage of building materials, tires, wheels, fencing or other similar items which are stacked or which must

be moved by forklift, front-end loader or a similar method shall be located within an area not closer than ten feet (10') from the street right-of-way line or shall be enclosed with a heavy wire fence or of a similar type, with the top of said fence not less than six feet (6') in height, or by an attractive hedge or board fence at least six feet (6') in height. In case of the open storage of lumber, coal or other combustible material, a roadway shall be provided, graded, surfaced and maintained from the street to the rear of the property, to permit free access of fire trucks at any time.

(Ord. 97-33, 11/3/97; 2005-07, 02/07/2005; 2018-07, 05/21/2018)