

ARTICLE 20

SUPPLEMENTAL DISTRICT REGULATIONS

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SECTION 20-1 GENERAL.

20-101. The regulations set forth in this article qualify or supplement, as the case may be, the district regulations appearing elsewhere in these regulations.

SECTION 20-2 HEIGHT AND YARD REGULATIONS

20-201. a. Height: Chimneys, cooling towers, elevator headhouses, fire towers, monuments, stacks, stage towers, scenery lofts, water towers, communication towers in commercial and industrial zones, or necessary mechanical appurtenances, usually required to be placed above the roof level and not intended for human occupancy are not subject to the height limitations contained in the district regulations.

b. Yards:

1. *Front yards.* The front yards established by the district regulations shall be adjusted in the following cases:
 - (a) Where there is no recorded front building setback line established by platting and all of the structures on one side of a block are set back greater than required by the district regulations, a new or enlarged structure may be set in line with the structure closest to the street. However, buildings in districts not requiring

setbacks may be constructed in accordance with such district regulations.

- (b) Where there is no recorded front building setback line established by platting and fifty (50) percent or more of the structures on one side of a block are setback less than required by the district regulations a new or enlarged structure may be set in line with the average of the existing structure or structures adjacent to the new or enlarged structure. However, no new or enlarged structure may be set closer to the front property line than fifteen (15) feet in a residential zone nor closer than ten (10) feet in a commercial or industrial zone.

2. *Accessory buildings and structures.*

- (a) Detached accessory buildings or structures must be located behind the front building line and may be located no closer than five (5) feet from the principal building, side or rear lot line, except if the structure has a vehicular entrance directly from an alley such accessory building or structure shall be set no less than ten (10) feet from the property line adjacent to the alley.
- (b) Existing accessory buildings or structures which do not meet the minimum setbacks may be rebuilt, reconstructed or enlarged, providing they do not further decrease the existing setbacks.

3. *Structural projections.* Every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings or structures, and except for:

- (a) Eave projections, sills, belt courses, cornices and other ornamental features may project a maximum of twelve (12) inches into a required yard, and
- (b) Open fire escapes, balconies opening onto a fire escape, chimneys and fireplaces may project no more than three and one-half (3 2) feet into a required rear yard, and
- (c) Unenclosed porches open to the sky and no more than three (3) feet above grade may project up to ten (10) feet into a front or rear yard.
- (d) Ornamental projections, and open porches not more than three (3) feet above grade, may project no more than two and one-half (2-1/2) feet into a required side yard.

4. Any principal structure, which is (a) not a nonconforming use, (b) was erected prior to January 1, 1987, and (c) does not comply with applicable yard regulations, may be continued without need of a variance provided:

- (a) The structure is not owned by the initial owner,
- (b) The structure is a main use and not an accessory use, and

- (c) The structure does not sit upon or project onto a street, alley, or public utility easement.

5. Additional setback requirements are set out at Article 24.

SECTION 20-3 NUMBER OF STRUCTURES ON A LOT

20-301. Where a lot is used for other than a single family residence, more than one principal use or structure may be located on such lot, provided that such buildings conform to all requirements for the district in which they are located, and all such buildings shall remain in single ownership unless such buildings and lots are certified as a condominium.

SECTION 20-4 SIGHT TRIANGLE

20-401. Corner lots in all zoning districts shall comply with sight triangle requirements as set out in Article 2 of these regulations.

SECTION 20-5 ACCESS TO COMMERCIAL AND INDUSTRIAL ZONED PROPERTY

20-501. No land which is located in other than a commercial or industrial zone shall be used for ingress to or egress from any land in a commercial or industrial zone.

SECTION 20-6 TEMPORARY USES

20-601.a. Only the following temporary uses may be permitted.

1. Carnivals and circuses, located in a commercial or industrial zone or on public property, when located at least two hundred (200) feet from the boundary of a residential zone and for a time period not exceeding two (2) consecutive weeks.
2. Contractor's office and equipment sheds on the site of a construction project only during the construction period.
3. Model homes or development sales offices located within the subdivision or development area to which they apply, with such use to continue only until sale or lease of all units in the development.
4. Outdoor temporary sales on private property and not incorporated or in partnership with the existing business located on this property in a commercial or industrial zone, including commercial sales, swap meets or similar activities providing they do not operate for more than ten (10) consecutive days and there are no more than four (4) such sales on any one property in any calendar year.
 - 4A. Mobile Food Vendor, located within industrial and commercial zoning districts are allowed a renewable 30 day permit, with a \$50 fee per 30 days. All

Mobile Food Vendors must comply with all state health codes, City of Emporia ordinances, and zoning regulations before a permit is issued. The permit is issued for the mobile food unit, not the location.

Hours of operation: Mobile Food Vendor may operate at the primary establishment where they are parked for no more than 12 continuous hours of operation per day.

Utilities and sanitation: All plumbing utilities shall be portable and self contained, with proper treatment and containment for greywater, grease, and wastewater holding and disposal. All safety equipment must be up to date. Electrical or other utility connections must be safe and in compliance with electrical and applicable codes and regulations.

Location: Vendors must be at least 50 feet from an established brick and mortar restaurant, unless there has been prior written approval from the established restaurant. Vendors cannot use public property for sales.

Maintenance: No extra storage trucks, trailers, sheds, containers, or canopies shall be allowed to be located on site of vendors location. Vendor is responsible to keep the location clean and orderly, and provide trash/recycle receptacles, and to clean up all trash, litter, spills within a twenty-foot radius or apparent operating area, whichever is greater.

Signs: One temporary sign is allowed and shall not block traffic or be placed in the public right-of-way.

The zoning administrator may issue a certificate of temporary use upon the payment of the mobile food vendor permit fee, imposed by the fee ordinance, and upon finding that all requirements have been met.

5. Seasonal sales of farm or garden produce on an individual's place of residence and raised by the same individual, provided no structure is constructed for such use.
6. One mobile home to be used as a temporary office for any allowable use in an industrial zoning district, provided that such mobile home shall not be used for more than a two (2) year period starting the day the mobile home is set upon the property.

b. Persons seeking approval for a temporary use authorized by items 1,2, 4 and 5 in subsection 20-601.a. above shall make application to the zoning administrator at least ten (10) days in advance of the time desired for usage. Such application shall include a site plan showing existing and proposed usage. The zoning administrator may issue a certificate of temporary use upon the payment of the temporary use permit fee imposed by the fee ordinance and upon finding:

1. The temporary use will not impair the normal, safe and effective operation of any permanent use on the same or adjoining site.
 2. The temporary use will not impact the public health, safety, or convenience and will not create traffic hazards or congestion or otherwise interrupt or interfere with the normal conduct of use and activities in the vicinity.
 3. That adequate off-street parking is available for the temporary use and any permanent use on the site.
- c. The following conditions for a temporary use shall apply:
1. Each site used by an authorized temporary use shall be left free of debris, litter and all evidence of such use.
 2. Such use when conducted upon a parking lot of another business shall not occupy more than twenty (20) percent of the required parking spaces of such uses.
 3. No temporary use shall be located within the required setback of the site.
 4. Any sign used in conjunction with the temporary use shall comply with all requirements of the sign regulations for temporary signs, including the obtaining of a sign permit.

SECTION 20-7 SCREENING FOR COMMERCIAL AND INDUSTRIAL-ZONED PROPERTY

20-701. a. *Commercial or industrial use adjacent to a residential zone.* Whenever a commercial or industrial zoned tract adjacent to a residential zoning district is used, screening to protect the residential land from the affect of the commercial use shall be required.

b. *Type of screening required.* Screening shall consist of a wall, fence or evergreen plantings six (6) to eight (8) feet in height having a visual density of at least ninety (90) %. Screens adjacent to the front yard of a residential zone shall not exceed forty-eight (48) inches in height.

c. *Location of screen.* All required screening shall be located within three (3) feet of the property line adjacent to the residential zone.

d. *Evergreen hedges or shrubs.* Evergreen plantings shall be planted at a height of at least thirty-six (36) inches and shall reach the required height and effective screening within eighteen (18) months.

e. *Maintenance of screens.* All required screens shall be permanently maintained in good and effective condition, and whenever necessary, repaired or replaced.

f. *Installation prior to occupancy.* Whenever screening is required, it shall be installed before occupancy of the commercial or industrial use is allowed. Where plantings are being used to accomplish the required screening and the season is unsuitable for planting, the owner shall submit a written verification, satisfactory to the zoning administrator, of when the required screening shall be planted.

SECTION 20-8 TELECOMMUNICATIONS TOWERS

20-801. Application for Permit. Radio or television towers, communication towers, microwave transmitting and/or receiving towers and/or stations, radio antennas, commercial satellite earth stations, base station antennas or wireless systems, omni-directional antennas and similar appurtenances may be allowed pursuant to issuance by the Zoning Administrator or with substantial changes the issue of a Conditional Use Permit, when such conditional use is provided for in the relevant district regulations subject to the following requirements:

a. Applicant shall present satisfactory proof that the proposed location and use is reasonably necessary.

b. None of the above uses shall be required to comply fully with the lot size and height regulations of the zoning district in which they are located except as may be required by the conditions imposed upon the applicant.

c. Any application for a proposed tower in excess of 150 feet in height shall include documentation regarding the necessity for the proposed height from a licensed professional engineer. Such documentation shall be in the form of an affidavit acceptable to the Planning Commission and signed by said Engineer. At the request of the Planning Commission additional evidence in the form of testimony may be required from said Engineer.

d. The tower and accessory equipment must meet all applicable requirements of the Federal Aviation Administration. To the extent allowed by such requirements, any required lighting for such tower shall be red during time of darkness.

e. The applicant must provide financial assurance, satisfactory to the City, that all cost related to the requirements of these regulations will be met. Any such assurances required by the City shall comply with Senate Substitute for House Bill 2131, Section (f)(8), 2016 session.

20-802. Fencing and Screening. Security fences must be constructed around or upon parcels containing towers and similar structures. Screening is not required of towers.

20-803. Setbacks and Landscaping. All landscaping on parcels containing towers or similar structures shall be in accordance with the applicable setback requirements in the rezoning district where the tower or similar structures are located. Existing vegetation shall be maintained to the extent possible. The Governing Body may require additional landscaping as part of the Conditional Use Permit if to do so would make the tower or similar structures more compatible

with the surrounding area.

The Zoning Administrator may approve a longer distance reasonably necessary to protect adjoining property and public safety as required by Senate Substitute Bill 2131 2016 Session(f)(6,17), and approved as a conditional use as needed. Setback requirements are as permitted by state law.

20-804. Security. All towers must be secured to protect against trespass or unauthorized use of the property, tower or similar structures.

20-805. Access. All parcels upon which towers are located must provide access to at least two (2) vehicular parking spaces located within one-hundred (100) feet of the tower.

20-806. Maintenance.

a. Permittees shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

b. Permittees shall install and maintain towers, telecommunications facilities, wire, cables, fixtures and other equipment in compliance with the requirements of the adopted electrical code of the City or County, as appropriate.

c. All towers, telecommunications facilities and similar structures shall at all times be kept and maintained in good condition, order, and repair so as not to menace or endanger public health or safety.

20-807. Height Requirements

A structure, pole, or antenna cannot exceed the height limit of the established zoning district by more than 30 ft, unless superseded by state or federal regulations.

20-808. Consideration of Conditional Use Permit.

a. Except as hereinafter otherwise provided, a Conditional Use Permit application for a telecommunications tower shall be subject to the same procedures for consideration and action as applies to any other Conditional Use Permit application pursuant to Article 26 of these regulations.

b. In lieu of the factors for consideration of a Conditional Use Permit application under 26-109 of these regulations, the Planning Commission may recommend approval of a Conditional Use Permit, and the Governing Body may approve such permit for a telecommunications tower, using the following factors as guidelines:

1. Whether approval of the conditional use would be consistent with the intent and purpose of, and meets the requirements of, these regulations;

2. The aesthetic impact of the proposed telecommunications tower on the surrounding neighborhood;
3. Whether the positions of the applicant and/or the opponents are substantiated by substantial competent evidence or rather generalized concerns or unsubstantiated claims are made to the Planning Commission and/or Governing Body;
4. Whether an Federal Communication Commission (FCC) license has been granted to the applicant authorizing provision of wireless services to the community and whether radio frequency emissions will comply with FCC regulations;
5. Will the tower adversely impact adjoining property values, present a hazard to air space, negatively impact the environment, traffic or in any other manner create negative impacts upon the neighborhood or community;
6. The recommendation of professional planning staff;
7. The expert testimony presented on behalf of and in opposition to the application; and
8. Such other factors as may be relevant to the facts and evidence presented in the application.

c. Consideration of an application for a Conditional Use Permit for a telecommunications tower shall be considered and acted upon by the Planning Commission and Governing Body in adherence to the limitations upon local authorities set out in Senate Substitute for House Bill 2131, 2016 session and the National Wireless Telecommunications Siting Policy, Section 332(c), 47 U.S.C. 332(c). Federal law provides in part that the regulation of the placement, construction and modification of personal wireless service facilities by a local government shall not unreasonably discriminate among providers of functionally equivalent services; and shall not prohibit nor have the effect of prohibiting the provision of personal wireless services. Further, the siting policy provides that a local government shall act on any request for authorization to place, construct or modify personal wireless service facilities within a reasonable period of time after the request is duly filed, taking into account the nature and scope of such request. Further that any decision by a local government to deny a request to place, construct or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record. And further that no local government may regulate the placement, construction and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the FCC's regulations concerning such emissions.

20-809. Filing Requirement. A permittee shall certify in writing that its tower is structurally sound and conforms to the requirements of the applicable state law and all other construction standards set forth by the local, federal and state law every three years by filing, by January 1st of every third year following the date of the grant of its tower permit, a sworn statement by the

permittee to that effect. All permittees or owners of towers in existence on the effective date of these regulations shall submit a statement by January 1, ~~2000~~ 2017, and by January 1st every five years thereafter that said tower is free from hazards and that the tower does not pose an imminent threat to the surrounding area or public health and safety. Together with this statement every permittee shall provide a certificate of liability insurance for not less than \$500,000.00 coverage for injury to persons or property as a result of any tower failure or malfunction or defect. Permittee shall list the zoning administrator as a party who must be notified should this insurance be canceled or discontinued for any reason thirty (30) days before the expiration of coverage.

20-810. Revocation of Permit. The Governing Body may revoke a permit for failure to comply with the provisions of these regulations in accordance with the limitation upon the Governing Body as set out in the Federal and State law. To properly revoke a permit, the Governing Body must comply with the procedures set forth below:

a. The Governing Body shall provide permittee with written notice of a cause for revocation and the intent to revoke and shall allow permittee sixty (60) days subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance. Together with the notice required herein, the Governing Body shall provide permittee with written findings of fact that are the basis of the revocation.

b. The Governing Body shall provide the permittee with the right to a public hearing before the Governing Body. Such public hearing shall follow sixty(60) day notice. All interested parties shall be allowed an opportunity to be heard at the public hearing and present evidence.

c. Within thirty (30) days after the public hearing date the Governing Body shall issue a written order setting forth its findings of fact and conclusions of law forming the basis for its decision.

d. Upon written determination by the Governing Body to revoke a permit, the permittee may appeal the decision to a court of competent jurisdiction.

e. Upon permittee's failure to correct a violation, the Governing Body may issue an order to disconnect utilities to said tower to any utility company providing same. Said order shall not be issued prior to thirty (30) days from the date of the Governing Body's written determination. Said order shall be served upon the chief executive officer thereof, together with the permittee at the last known address, and have attached to it the findings of the Governing Body.

20-811. Application Approval Authority

A. Administrative Approval – The zoning administrator may approve applications for Communication Towers for the following:

1. The modification of an existing tower that does not incur a Substantial Change (see definition) to the tower, pole, or base station.

2. New antenna systems on an existing tower, utility pole or street light in the public right-of-way. This provision is also applicable when the existing tower, utility pole or street light is replaced by a tower, utility pole or street light that is not a substantial change from the original.

3. New antenna systems on an existing tower or base station (*such as a building*) that does not incur a substantial change to the tower/base station and that: (1) is permitted by right in the underlying zoning district; and (2) meets applicable performance standards.

4. New freestanding pole for antenna or wireless system in the public right-of-way.

B. Conditional Use Permit Approval – A Conditional Use Permit reviewed by the Planning Commission and approved by the Governing Body is required for applications for Communications Facilities for the following:

1. A substantial change to an existing tower or similar apparatus that is not permitted by right in the underlying zoning district.

2. New tower that is not permitted by right in the underlying zoning district.

C. Application Requirements for Administrative Permit. All applications for an administrative permit shall include the following information:

1. The name, address and telephone number of the landowner of any parcel of land or antenna support structure upon which the telecom structure will be situated. If the applicant is not the landowner, the applicant shall submit his or her name, address and telephone number. The landowner, owner and applicant shall sign the application.
2. The legal description and street address of the parcel of land, or antenna support structure, upon which the proposed telecom structure will be situated.
3. Elevation plans drawn to scale of all proposed telecom structures; an accurately scaled site plan showing existing buildings, proposed telecom structures and proposed landscaping and screening; and a written description of all proposed telecom structures and proposed quantities, types and sizes of landscaping materials.
4. Photographs of the site in its current condition, and accurately proportioned photo-realistic representations of the site showing the telecom structure in place with proposed landscaping and screening.
5. If the applicant is not the landowner, the landowner shall provide an affidavit indicating consent to develop upon the landowner's property. The landowner shall sign an agreement with the City that states that if abandonment occurs, the landowner shall be responsible for the removal of the proposed telecom structure if the owner fails to remove it. The landowner shall file the agreement with the Register of Deeds in the appropriate county, as a condition of approval of any administrative permit for any telecom structure, and shall provide a copy of the filed agreement to the City prior to the construction of the telecom structure.
6. An affidavit from the manufacturer or engineer describing the maximum capacity of the telecom structure for co-location, including the number and type of providers it can accommodate, with consideration of radio frequency interference, mass, height

and other characteristics, as well as options to overcome any problems those considerations may pose to service delivery. The affidavit shall certify that the telecom structure has been designed and will be constructed to support the specified number of providers.

7. For a stealth monopole or tower application, certification from the engineer of the structure's manufacturer that the structure is designed and shall be constructed to ensure that a structural failure or collapse will not create a safety hazard to adjoining properties and that the structure will collapse on itself within the fall zone designated by the manufacturer.
8. Written statements from the applicant or engineer that indicate the following:
9. The need for the telecom structure to provide or enhance personal wireless telecommunication services in the area, including: a map showing the location of the proposed telecom structure and its service area; the location of the providers' other existing telecom structures in the area; applicable propagation models, search ring maps and other relevant documentation.
 - a. The minimum height required to serve the proposed service area.
 - b. An explanation why the proposed site is required to meet service demands and how it would interact with the providers' other existing telecom structures in the service area.
 - c. Proposed stealth measures designed to minimize potentially adverse visual effects on nearby properties, with consideration of design, unobtrusiveness, minimum height necessary to accommodate antennae, avoidance of artificial light and the color of the telecom structure.
 - d. A description of the fall zone of the telecom structure.
 - e. The distance between the proposed telecom structure and the nearest residential dwelling unit and residentially zoned properties.
 - f. A description of the security barrier, if any, surrounding the base of the telecom structure, including the method of fencing, finished color and, if applicable, the method of camouflage and illumination.
 - g. Applicants shall be required to submit information on the proposed power density of their proposed telecom structure and demonstrate compliance with FCC standards regulating radio frequency (RF) emissions. This information is used solely for public information, as the FCC has the sole jurisdiction to regulate RF emissions. The City will not condition or deny an application because of potential RF impacts.
 - h. When applicable, documentation that the proposed tower or stealth monopole meets FAA requirements.
 - i. Any other information requested by the City that is reasonably necessary for the City to fully evaluate the application.

20-812. Abandonment of Tower.

- a. In the event the use of any tower has been discontinued for a period of one (1) year, or in the event that a permittee has taken no action within one-hundred eighty (180) days after the revocation of a tower permit, such tower shall be deemed abandoned.

b. The Governing Body shall provide the tower owner with three (3) months notice and an opportunity to be heard by the Governing Body for the purpose, before initiating an abandonment action.

20-813. Stealth Design Principles for Telecommunication Structures

Stealth telecom structures shall be designed to blend in with the character and environment of the area in which they are proposed to be located, and to enhance compatibility with nearby land uses by minimizing visual impacts. Pre-Existing telecom devices that are modified or replacement shall incorporate the following design principles, as applicable to the type of telecom structure and character of the location:

- A. Preserve the pre-existing character of the area as much as possible.
- B. Minimize the height, mass and proportion of telecom structures to minimize impacts on the character of the nearby area.
- C. Minimize the silhouette presented by new towers, stealth monopoles, antenna support structures and antenna arrays. Monopoles are favored over lattice-type towers; antennas mounted inside an antenna support structure or monopole, or mounted flush to the antenna support structure, are favored over triangular “top-hat” or other projecting external types of antenna arrays.
- D. Use colors, textures and materials that blend in with the existing environment; surfaces shall be painted, or otherwise treated, to match or complement existing background structures and surfaces, and to minimize reflection.
- E. Conceal telecommunication facilities from view by placing inside a building, steeple, penthouse, clock tower, flagpole or other appropriate structure. Architectural additions or appurtenances to existing antenna support structures that are intended to conceal telecommunication facilities, shall be designed to be appropriate in mass, scale, material, texture, color and character with the existing antenna support structure.
- F. Camouflage and/or disguise telecom structures to look like another type of structure or object, through methods including, but not limited to design, placement, use of materials, texture, color, year-round landscaping and screening, to blend in with the character of the surroundings, or integrate into the architectural elements and character of an existing antenna support structure to such an extent that it is indistinguishable by the casual observer from the structure on which it is located, or from the surroundings in which it is placed. Stealth monopoles designed to look like a flagpole shall utilize a flag that is appropriately sized for the height of the pole. Stealth monopoles disguised as a tree shall be of a height, character and placement that is appropriate to the location. Telecom structures mounted on roofs or similar structures shall be concealed from view by placement and setback from the edges and/or through use of architectural screening that is in character with the building or antenna support structure.
- G. Locate telecom structures in areas where trees and/or buildings obscure some or all the

telecom structures from view, and install new year-round landscaping and screening around the site where visible from public streets or residential areas.

- H. Locate accessory equipment inside a building or in underground vaults when possible. Screen ground-level telecom structures through use of walls, fencing or year-round landscaping, or combinations thereof, which is appropriate in design, height and material to the character of the location and the structure to be screened.

SECTION 20-9 FENCES

20-901. Except as otherwise specifically provided elsewhere in these regulations or other codes and regulations of the City, or of the County with respect to fences or unincorporated land within the Metropolitan Planning Area, the following restrictions shall apply to the construction of all fences or improvements, replacement or extensions of existing fences.

- a. *Location and heights of fences.*
1. *Front yard.* Fences may be erected adjacent to or within a required front yard providing such fence shall be no more than forty-eight (48) inches in height following the natural contour of the ground, except no fence over thirty (30) inches in height shall be erected within a sight triangle.
 2. *Side yard or rear yard.* Fences may be erected adjacent to or within a side or rear yard provided such fence shall be no more than six (6) feet six (6) inches in height following the natural grade of the ground.
 3. *Buildable areas.* Fences located in any area of the lot on which a main building may be built may be built to a height of eight (8) feet.
 4. *Exception to heights.* The Zoning Administrator may authorize a higher fence when such fence will promote the safety, health or general welfare of the public.
- b. *Prohibited fences.* No barbed wire or other sharp fence and no electrically charged fence of any type shall be erected or maintained. Provided, the Zoning Administrator may, when he or she deems necessary for security around commercial, industrial or public properties, authorize the placing of barbed wire on top of a fence no less than six (6) feet in height. The Zoning Administrator shall determine the direction that such barbed wire must be installed.
- c. *Retaining walls.* Retaining walls may be erected at locations and heights of fences, providing the maximum height of such retaining wall shall be measured from the low side of the wall.
- d. *Adverse affect.* No person shall erect or maintain any fence which will materially damage the adjacent property by obstructing the view, shutting out the sunlight or hindering

ventilation or which fence shall adversely affect the public health, safety and welfare.

e. *Removal.* Any fence or wall maintained in violation of these regulations is hereby declared a nuisance and shall be removed within five (5) days after receipt of notice of the Zoning Administrator.

SECTION 20-10 HOME OCCUPATIONS

20-1001. Home occupations as defined in Article 2 of these regulations shall be permitted in the "AL" District and all residential zones subject to the following:

a. Restrictions and Limitations

1. No more than one employee or volunteer shall engage in such home occupation other than a person occupying the dwelling unit as his or her place of residence.
2. There shall be no outdoor storage of materials or equipment used in the home occupation.
3. No exterior alterations or other construction shall be made to the dwelling which changes the character or appearance from its primary residential use.
4. No new accessory buildings shall be constructed for use, in whole or in part, in the home occupation.
5. The repair of items as a home occupation may occur only when the delivery and pickup of the item is conducted off the premises by the proprietor of the home occupation or by an employee (as authorized in item 1 above) of the home occupation. No trips shall be generated to or from the home occupation by customers with items which have been or are to be repaired.
6. No equipment or material shall be used which creates any noise, vibration, smoke or odors perceptible at the boundary lines of the property, which would be in excess of that ordinarily created by a single family residential dwelling.
7. No merchandise shall be displayed or sold on the premises to members of the general public, except craft or articles made by the person operating the home occupation. In no instance, shall there be any outside display of such articles in connection with the home occupation. "Members of the general public" shall not include persons who have prior individualized invitation.
8. The area exclusively devoted to all home occupations shall be limited to fifteen percent (15%) of the floor area of the dwelling or two hundred fifty (250) square feet, whichever is less.
9. The giving of lessons of any type shall be limited to no more than five (5) persons

at any one time.

10. No sign shall be permitted, unless required by law, and then such required sign shall be mounted flat against the exterior wall of the dwelling unit.
11. Vehicles of one ton or less may be used in the home occupation, provided that no more than one such vehicle shall be parked or stored on the premises outside of an enclosed garage.

b. Power of Zoning Administrator. The Zoning Administrator is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this Section, including, the power to:

1. Investigate any home occupation or alleged home occupation, to determine whether or not such is in compliance with these regulations.
2. Enter upon premises for the purpose of making examinations: provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted.

c. Home Occupations Permitted. Permitted home occupations are primarily of a service nature similar to, but not limited to, the following:

1. Artists, sculptors, and writers.
2. Custom dressmaking, tailoring, sewing of fabrics for custom apparel.
3. Giving of lessons of any type.
4. Professional offices for architects, engineers, planners, lawyers, accountants, bookkeepers, realtors, insurance agents, brokers, sales representatives, and contractors, and similar professional offices.
5. Fabrication and/or assembly of handicraft or hobby articles.
6. Photographic Studios.

d. Home Occupations Prohibited. Except where allowed as a permitted or conditional use, home occupations shall not in any event include the following:

1. Antiques-retail or wholesale.
2. Animal care of any type
3. Funeral homes or services

4. Retail sale or rental of any goods or products.
5. Tourist homes or apartment rental.
6. Automotive sales, repair, or service of any type.
7. Appliance repairs (other than small hand-held household appliances).
8. Beauty or barber shops.

SECTION 20-11 ACCESSORY USES

20-1101. Accessory uses are permitted in any zoning district in connection with any permitted principal use.

a. *Definitions.* An accessory use is a structure or use which:

1. Is subordinate to and serves a principal building and principal use.
2. Is subordinate in area, extent or purpose to the principal building or buildings served.
3. Contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served.
4. Is located on the same tract as the principal building or principal use served.

b. *Permitted accessory uses.* Any structure or use that complies with the terms of 20-1101.a. of this article may be allowed as an accessory use or structure accessory structures and uses include, but are not limited to, the following list of examples provided that in each case such structure or use must fit the general definition of "accessory use" contained in 20-1101.a.. of this article.

1. Private garages or carports or any combination thereof, not to exceed the following capacity
 - (a) For single-family residences on lots less than twice the minimum lot area required in the applicable zoning district: not to exceed one thousand (1,000) square feet in area.
 - (b) For single-family residences on lots of greater than twice the required minimum lot area for the applicable zoning district: not to exceed one thousand two hundred (1,200) square feet in area.
 - (c) For multi-family residences: Two (2) cars per dwelling unit.

- (d) For single-family residences outside the city limits but within the Metropolitan Planning Area and on lots exceeding 18,000 square feet: an accessory building footprint shall not exceed 10% of the total square footage of the lot.
2. A structure for storage incidental to a permitted use, provided no such structure that is accessory to a residential building shall exceed two hundred square feet in gross floor area.
 3. A child's playhouse.
 4. A private swimming pool and bathhouse.
 5. A guest house (without kitchen facilities) or rooms for guests in accessory building, provided such facilities are used for the occasional housing of guests of the occupants of the principal building and not as rental units or permanent occupancy as house-keeping units.
 6. Statuary, arbors, trellises, barbecue stoves, flagpoles, fences, walls, hedges and radio and television antennas.
 7. Fallout shelters, provided that they shall not be used for any principal or accessory use not permitted in the zoning district.
 8. Off-street and loading spaces as regulated by Articles 22 and 23 of these regulations.
 9. Storage of major recreational equipment, such as boats, boat trailers, camping trailers, converted buses or trucks, motor homes, provided no such equipment is occupied for dwelling purposes.
 10. Restaurants, drug stores, gift shops, club and lounges and newsstands when located in a permitted hotel, motel or office building.
 11. Employee restaurants and cafeterias when located in a permitted business or manufacturing or industrial building.
 12. Offices for permitted business and industrial uses when said office is located on the same site as the business or industry to which it is an accessory.
 13. Retail sales for permitted industrial uses when located on the same site as the industrial use.
 14. The storage of retail merchandise when located within the same building as the principal retail business.

- c. *Prohibited accessory uses.* None of the following shall be permitted as an accessory use:
1. Outdoor storage or overnight parking in a residential district of trucks or mobile homes, except pick-up trucks and small vans, provided such storage or parking may be permitted upon the issuance of a waiver by the Zoning Administrator following a finding by the Administrator that such waiver would not be adverse to public health, safety or welfare.
 2. Outdoor storage, except as specifically permitted in the district regulations.
 3. Storage containers in all residential districts (also known as sea van, cargo storage, sea-land container, shipping container) or any unit the Zoning Administrator deems to be consistent with storage containers.

SECTION 20-12 RESIDENTIAL-DESIGN MANUFACTURED HOUSING STANDARDS

20-1201. a. In order to be classified as a Residential-Design Manufactured Home a structure must be manufactured to the standards embodied in the National Manufactured Home Construction and Safety Standards generally known as the HUD Code established in 1976 pursuant to 42 U.S.C. Sec. 5403. Such structures shall provide all of the accommodations necessary to be a dwelling unit and shall be connected to all utilities in conformance with applicable City regulations. Such a structure shall be on a permanent-type, enclosed perimeter foundation which has minimum dimensions of 22 body feet in width excluding bay windows, garages, porches, patios, pop-outs and roof overhangs; a pitched roof; siding and roofing materials which are customarily used on site-built homes; and which complies with the following architectural or aesthetic standards so as to ensure their compatibility with site-built housing:

1. The roof must be predominantly double-pitched and have a minimum vertical rise of 2.5 inches for every 12 inches of horizontal run, and must be covered with material that is customarily used on site-built dwellings, including but not limited to approved wood, asphalt composition shingles, clay or concrete tile, slate or fiberglass, but excluding corrugated aluminum or corrugated fiberglass roof. The roof shall have a minimum eave projection and roof overhang on at least two sides of 10 inches which may include a gutter.
2. Exterior siding shall be of a nonreflective material customarily used on site-built dwellings such as wood, composition, simulated wood, clapboards, conventional vinyl or metal siding, brick, stucco, or similar materials, but excluding smooth ribbed or corrugated metal or plastic panels. Siding material shall extend below the top of the exterior of the foundation or curtain wall or the joint between siding and enclosure wall shall be flashed in accordance with City-adopted building codes.
3. The home shall be installed in accordance with the recommended installation procedure of the manufacturer and the Uniform Building Code as adopted by the

City. The running gear, tongue, axles and wheels shall be removed from the unit at the time of installation. Either a basement or a continuous, permanent masonry foundation or curtain wall, unpierced except for required ventilation and access which may include walk-out basements and garages, shall be installed under the perimeter of the home.

4. At the main entrance door there shall be a landing that is a minimum of 25 square feet which is constructed to meet the requirements of City-adopted building codes.
5. The moving hitch, axles, wheels and transporting lights must be removed at the time of installation of the home on the lot.
6. On level sites, the main floor shall be no greater than twenty four (24) inches above the finished grade at the foundation. On sloping or irregular sites, the main floor at the side closest to grade level shall not be greater than twenty-four (24) inches above the finished grade at the foundation.
7. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the Uniform Building Code as adopted by the City and attached permanently to the primary structure and anchored permanently to the ground.
8. Any attached addition to such a home shall comply with all construction requirements of the City-adopted building codes, unless designed and constructed by a manufactured home factory.
9. If 50% or more of the frontage of existing site-built housing on both sides of the street on which the residential-design manufactured home is to be installed have a garage and/or a similar percentage have a covered porch or recessed entry, such a home shall also provide a garage and/or porch or entry based on the percentages determined by the Zoning Administrator. On a corner lot, "street" shall mean that street on which the frontage of the facade has been designated for the household address number. External roofing and siding material of such garage, porch or entry shall be similar in appearance to the materials on the roofing and siding of the residential-design manufactured home.

b. For purposes of these regulations, the term "manufactured home", when used by itself, shall not include a "residential-design manufactured home" as herein defined.

SECTION 20-13 LANDSCAPING

20-1301. Landscaping.

a. The intent of this section is as follows: to provide greenery to visually soften paved areas and buildings; to establish optimum environmental conditions by providing shade, air

purification, oxygen regeneration, groundwater recharge, retardation of storm water runoff, and abatement of noise, glare and heat; to preserve existing trees; and to buffer uncomplimentary land uses and generally enhance the quality and appearance of developed properties.

b. Landscaping shall be provided when a building permit is issued on all properties developed for multiple-family use and all nonresidential uses when such uses are established on property one-half (1/2) acre or greater in area.

1. Landscaping shall be provided along a front lot line to the depth of at least 10 feet whenever such front lot line is adjacent to or across from residential districts. No other uses except driveways and signs shall be allowed in such landscaped area.
2. All landscaping shall meet the requirements of the sight triangle in Section 20-4.
3. Landscaping along the front lot line shall involve bringing the soil surface to a smooth finished grade and installing sufficient trees, shrubs, ground cover and grass to soften building lines, provide shade and generally produce a pleasing visual effect of the premises.
4. Minimum tree requirements: Insofar as practicable, the existing landscape should be preserved, minimizing tree and vegetation removal. Landscaping should be used on the site to visually screen storage areas, truck loading areas, utility buildings, and structures; enhance architectural features; block noise generated by intense-use areas; generally shade and cool the area; and direct the wind movements.
5. Whenever such landscaping is required, a landscape plan for the area shall accompany the application for a building permit. Such plan shall be reviewed by the Zoning Administrator for compliance with these regulations prior to the issuance of building permits.
6. The landscaping plan shall be in such detail to provide enough information to determine if the plan meets the above criteria. Such plan is to include the following information:
 - (a) North point and scale.
 - (b) Topographic information and final grading adequate to identify and properly specify planting for areas needing slope protection.
 - (c) The location, size and surface of materials of all structures and parking areas.
 - (d) The location, size and type of all above-ground and underground utilities and structures with proper notation, as to any safety hazards to avoid during installation of landscaping.

- (e) The location, size, type and quantity of all proposed landscaping materials, along with common and botanical names of all plant species. The size, grading and condition shall be specified according to American Association of Nurserymen Standards.
 - (f) The location, size and common name of all existing plant materials to be retained on the site.
 - (g) Mature sizes of plant materials shall be drawn to scale and identified on the plan.
 - (h) Location of hose connections and other watering sources.
 - (i) The location of all trees, 12-inch caliper or larger, measured at 4 feet above ground level, that are proposed for removal.
7. The Zoning Administrator may, in his or her discretion, temporarily or permanently waive any of the requirements of 20-1301.b for landscaping if:
- (a) The adjacent land may not necessitate nor benefit from such a requirement; or
 - (b) The adjacent land use may already have adequate landscaping for which additional landscaping may be a duplication; or
 - (c) The future land use for the adjacent area can not readily be determined at the time of the application for building permit and that the requirements should be waived and the matter reviewed at a specified date in the future. In such case, the Zoning Administrator shall require that either a letter of assurance or a covenant be submitted to run with the land; or a guarantee in the form of a corporate security bond, cashiers check, escrow account or other security be submitted to the City to ensure that such requirements will be met when a determination is made.
8. Maintenance.
- (a) It shall be the responsibility of the property owner to maintain in good condition all of the required landscaping improvements. When it is determined by the Zoning Administrator that improvements required by this section are not being maintained, he or she shall give notice in writing to the property owner. Such notice shall specify in what manner the improvements are in need of maintenance and a date for compliance. The owner shall not have less than 30 days to comply with the notice.

- (b) If the owner of the land has failed, refused or neglected to make the necessary maintenance repairs within the time of the notice such failure, refusal or neglect may be (1) prosecuted as a violation of these regulations, or (2) the Zoning Administrator shall cause such maintenance to be done to the property. The cost of maintenance shall be certified by the Zoning Administrator to the Clerk, who shall cause the costs to be assessed against the property on which the maintenance repairs were made.

SECTION 20-14 INOPERABLE MOTOR VEHICLES

20-1401. Inoperable motor vehicles shall be permitted only in the following locations or under the following conditions:

- a. Within a completely enclosed building in a residential district when the vehicle is owned by the resident residing on such premises; except that when the resident is engaged as a hobby in the restoration of not more than one inoperable motor vehicle more than thirty-five (35) years old, the vehicle need not be enclosed in a building.
- b. Within a salvage yard
- c. Within a motor vehicle storage yard.
- d. At a motor vehicle body or repair service in accordance with the restrictions of the district in which said use is located.

SECTION 20-15 EMERGENCY ACCESS ROADS

20-1501. a. Wherever regulations of the City or County require means of access to property by emergency response vehicles, including fire, police and ambulance, and no such access is available by means of public street or road, the Zoning Administrator may, upon request of the property owner, issue a permit for an emergency access road which shall not be dedicated and opened as a public street

b. Such a permit shall state the conditions upon use of the road, including but not limited to the following:

1. Prohibition upon use of the road for any purpose other than for access by emergency response vehicles;
2. Prohibition against parking any vehicle upon the roadway or otherwise obstructing in any way the road;
3. Requiring the owner to maintain the road; and
4. Requiring the owner to post and maintain signs declaring the road to be restricted

to use by emergency response vehicles only.

c. The Zoning Administrator is authorized to suspend or revoke any permit upon a finding of a violation of any condition of the permit.

d. A decision of the Zoning Administrator not to issue a permit, or to suspend or revoke a permit, may be appealed by any aggrieved party to the Board of Zoning Appeals.