

## ARTICLE XI. ADDITIONAL STANDARDS AND EXCEPTIONS

### SECTION 30-35 ADDITIONAL STANDARDS AND EXCEPTIONS

(A) Height Regulations

Chimneys, church steeples, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers, spires, wireless towers, utility poles, grain elevators, or necessary mechanical appurtenances, are exempt from height regulations, except in air overlay districts.

(B) Additional Yard, Lot Area and Width Regulations

(1) Setbacks

- (a) On lots fronting on two (2) non-intersecting streets a front yard must be provided on both streets.
- (b) Where a garage is entered from an alley, it must be kept a minimum of ten (10) feet from the alley line.
- (c) When a less restrictive zoning district or use abuts a more restrictive zoning district or use, a yard along the entire lot line of the less restrictive district or use shall be devoted to a transitional buffer yard. This transitional buffer yard shall maintain a distance from the lot line equal to ten (10) ft. or the average of the required setbacks associated with the abutting yards in the more restrictive district(s), whichever is greater. In no case shall the buffer exceed twenty-five (25) ft., except when greater setbacks are required under Section 30-33 Planned Development District. The transitional buffer yard shall be devoted to green area, except for that portion containing a driveway. See the Appendix, Section 30A, for a transitional buffer yard illustration and a matrix list of less restrictive/more restrictive districts or use relationships within the City of Oshkosh.
  - (i) For multiple dwelling uses abutting single family or two family uses in a multiple dwelling district, a ten (10) foot minimum rear and side yard setback may be provided for parking lots and detached garages, provided the setback areas are devoted to green area and complies with the landscaping requirements of this Article.
- (d) Unless specified differently herein, where the frontage of a block is divided among districts with different front yard setback requirements, the deepest front yard requirement shall apply.
- (e) On an interior residential lot, the front yard setback for a principal single or two family structure may be the average of the existing front yard setbacks of the two lots abutting it, but not less than fifteen (15) feet. In the event that either or both of the abutting lots is vacant, the minimum front yard setback required will be used for the purpose of calculating the average.

(2) Projections Into Setbacks

- (a) Uncovered entrance platforms necessary to comply with current ingress and egress regulations may extend four (4) ft. into the front yard setback area and shall be no wider than six (6) ft. and steps from the platform may extend into the setback area for the distance needed to meet minimum building code requirements for risers and treads. Replacement steps for porches may be as wide as the steps being replaced and may extend into the setback area for the distance needed to meet minimum building code requirements for risers and treads.
- (b) Sills, belt courses, cornices, gutters, overhangs, ornamental features and the ordinary projection of chimneys and flues may project only two (2) feet into a required yard.
- (c) Open fire escapes, fireproof outside stairways, and balconies opening upon fire towers, may project into a side or rear yard for a distance of not more than three and one-half (3 ½) feet when so placed as to not obstruct light and ventilation.
- (d) Uncovered patios and decks not to exceed twelve (12) inches above established grade, may project within two (2) feet of the adjacent side lot line.
- (e) Flag poles, ornamental features, sidewalks, landscaping and associated structures, posts, or other similar amenities when accessory to a residential use.
- (f) Recreational Equipment: When accessory to a residential use, is permitted within rear yards, provided a five (5) foot setback is maintained from all lot lines.
- (g) Basketball backboard structures are permitted within a front yard, provided a minimum setback of fifteen (15) feet is maintained from the front lot line and a five (5) foot setback is maintained from the side lot line.

(3) Special Structure Setback Lines

Structure setback lines specifying the distance from the street that any structure may be erected are hereby established along the following described streets, or parts thereof:

<u>Street</u>	<u>Structure Setback</u>
BOWEN STREET - West side, from Murdock Ave. north to the City limits.	25 feet

(4) Lot Width

- (a) On lots under separate ownership on the effective date of this Ordinance and less than fifty (50) feet in width, the side yard may be reduced to ten (10) percent of the lot width but not less than three (3) feet and the rear yard may be reduced to twenty (20) percent of the lot depth as long as parking is provided in conformance with Section 30-36 Off-Street Parking and Loading Facilities.
- (b) Lots of record upon the effective date of this Ordinance with less area or width than required by the district regulations may be used for one (1) single family residence or for a permitted non-dwelling use.

(5) Handicap Ramps

- (a) Handicap Ramp Permit: A handicap ramp permit, to be issued by the Zoning Administrator for handicap ramps proposed for placement within a required setback area, is required prior to construction. An application for a permit shall include an accompanying written statement explaining the reasons for the placement of the handicap ramp. The Zoning Administrator may also require, in addition, a statement from a physician verifying the need for the handicap ramp.
- (b) Setbacks: Handicap ramps are permitted in the required setback areas, but must, in the opinion of the Zoning Administrator, be the minimum intrusion necessary to construct a functional handicap ramp.
- (c) Aesthetic Treatments: Handicap ramps must have skirting covering the lower open portion of the ramp and shall be kept in good repair and shall include landscape treatments as a buffer treatment between adjacent properties and the ramp.
- (d) Handicap Ramp Removal: The Zoning Administrator may periodically require verification of the continual need for the handicap ramp. When it has been determined the handicap ramp is no longer needed, the Zoning Administrator may order its immediate removal.

(C) Interpretation of Open Space Requirements

No part of a yard or other open space provided about any structure for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard or other open space required for another structure.

(D) Number of Structures Per Lot

- (1) Multi-Family, Motel, Hotel, and Institutional: There may be two (2) or more related multi-family, hotel, motel or institutional structures on a lot; provided, that (a) the required yards be maintained around the group of structures, and (b) structures that are parallel, or that are within forty-five (45) degrees of being parallel, be separated by a horizontal distance that is at least equal to the height of the highest structure.
- (2) Commercial and Industrial: In the commercial and industrial districts there may be more than one (1) commercial or industrial structure on a lot provided that the required yards be maintained around the group of structures.

(E) Fences and Hedges

- (1) No fence or hedge more than thirty (30) percent solid or more than thirty (30) inches high from the established sidewalk elevation may be located within the intersection sight distance triangle, except for intersections controlled by four way stop signs.
- (2) Fences and hedges less than four (4) feet high may be located within the required front yard, except fences that are more than fifty (50) percent solid shall not be permitted within fifteen (15) feet of a front lot line.
- (3) Fences six (6) feet high or less may be erected on those parts of a lot that are as far back or farther back from a front property line than the principal structure.
- (4) Fences greater than six (6) feet in height may be erected if they meet the setback

requirements for areas of the principal structure.

- (5) Fences six (6) feet in height may be constructed in the front yard on the long side of corner lots provided they have a setback equal to that of the existing principal structure, or what would be required for new construction of a principal structure based on the lot dimensions, whichever is greater.
  - (6) Prior to constructing a fence, a Fence Permit shall be obtained from the Building Inspector. Permit requests must include a site plan depicting the lot, all structures on the lot, and the location and height of the fence.
  - (7) The height of a fence shall be measured from the established grade.
- (F) Community Living Arrangements: Community Living Arrangements, as defined in Section 46.03(22), Wisconsin Statutes, and foster family home or adult family home as defined in Section 50.01(1), Wisconsin Statutes.
- (1) In all zoning districts which allow residential uses, no minimum distance between Community Living Arrangements is required.
  - (2) Evidence that all applicable local building permits and State licenses have been obtained by the operator of a Community Living Arrangement must be presented to the Zoning Administrator prior to occupancy of a Community Living Arrangement.
- (G) Corner Lots/Vision Clearance  
Twenty (20) feet minimum, unless otherwise regulated by the setback standards of the underlying zoning district. No structure, except for fences or hedges, may be located within the sight distance triangle except for signalized intersections and intersections controlled by four way stop signs.
- (H) Landscaping
- (1) All permits for new development, including additions that exceed fifty (50) percent of the existing floor area of existing structures, and new parking lot developments and the expansion of a parking lot that exceeds fifty (50) percent of the existing parking lot area, shall be accompanied by a complete landscape plan, except for single family and two family residential uses, and commercial development in the C-3 Central Commercial District and industrial development in the M-2 Central Industrial District.
  - (2) Landscape Plan  
Applicant's shall submit two (2) copies of a landscape plan which shall contain the following information:
    - (a) The name and address of developer/owner, name of architect/designer, date of plan preparation, date and description of all revisions, name of project or development, scale of plan, and north point indication.
    - (b) The location and dimensions of all existing and proposed structures, parking lots, driveways, roads, underground utilities, right-of-way, sidewalks, ground signs, refuse disposal areas, fences, free-standing electrical equipment and other utility boxes, and other free-standing structural features as determined necessary by the Zoning Administrator.
    - (c) The location and contours at one (1) foot intervals, of all proposed berms.

- (d) The location, size, and type (common and botanical) of all existing plant material on the site and designation of all trees and shrubs to be saved and/or removed.
- (e) The location, quantity, size at planting and type (common and botanical) of all proposed plant material. All plants should be drawn at the spread they will achieve at maturity.
- (f) A refuse disposal area screen detail.
- (g) Elevations, cross-sections and other details as determined necessary by the Zoning Administrator.

(3) Landscaping Requirements

To achieve an appropriate level of landscaping of a building construction site, the following minimum number of plant materials shall be provided except in the C-3 Central Commercial District and the M-2 Central Industrial District. These requirements are in addition to plant materials required in and around parking area developments.

The intent of this section is to provide minimum standards regarding number and placement of landscape plant materials in and around developed areas. A "developed area" encompasses that portion of a property where site improvements are made, which includes, but is not limited to, that area which is made up of structures, parking, driveways and docking/loading facilities, exclusive of lands which are located in the required setback areas and undeveloped land area on the same parcel (see Appendix for a "developed area" illustration).

The placement of plantings shall be undertaken in a manner that addresses the need to provide an overall landscape improvement plan for the property and which takes into consideration the potential for future improvements on the site.

(a) Plant Material Required - Industrial Building Construction

To achieve an appropriate level of landscaping on an industrial building construction site, the following minimum number of plant materials shall be provided, exclusive of plant materials required in and around parking area developments:

- (i) One (1) overstory deciduous shade tree, coniferous or ornamental tree for every four thousand five hundred (4,500) square feet of developed area. Ornamental trees shall not make up more than twenty-five (25) percent of the total number of trees with coniferous trees being at least fifteen (15) percent of the total number of trees.
- (ii) One (1) understory shrub for every four thousand five hundred (4,500) square feet of developed area.

(b) Plant Material Required - Commercial Building Construction

To achieve an appropriate level of landscaping on a commercial building construction site, the following minimum number of plant materials shall be provided, exclusive of plant materials required in and around parking area developments:

- (i) One (1) overstory deciduous shade tree, coniferous or ornamental tree for every four thousand five hundred (4,500) square feet of developed area. Ornamental trees may comprise up to fifty (50) percent of the total number of trees with coniferous trees being at least fifteen (15) percent of the total number of trees.
  - (ii) One (1) understory shrub for every one thousand (1,000) square feet of developed area.
- (c) Plant Material Required - Multiple Residential Building Construction  
To achieve an appropriate level of landscaping on a multiple dwelling residential construction site, the following minimum number of plant materials shall be provided, exclusive of plant materials required in and around parking area developments:
- (i) One (1) overstory deciduous shade tree, coniferous or ornamental tree for every four thousand five hundred (4,500) square feet of developed area.
  - (ii) One (1) understory shrub for every one thousand (1,000) square feet of developed area.
- (d) Plant Material Required - Parking Lot Development  
To achieve an appropriate level of landscaping of a parking lot development, the following minimum number of plant materials shall be provided and shall be placed on the perimeter of parking areas:
- (i) One (1) overstory deciduous shade tree, coniferous or ornamental tree for every fifty (50) feet of parking lot site perimeter.
  - (ii) Five (5) understory shrubs for every fifty (50) feet of parking lot site perimeter.
  - (iii) Parking lots are part of a developed area and the standards as set forth in Section 30-35(l)(3) shall apply. Where parking lot improvements increase the developed area of a property, additional landscaping treatments are to be provided within the overall property, as set forth in Section 30-35(l)(1), (2) and (3).
- (e) Ground Cover  
All open areas of any site not occupied by a building, parking or storage shall be planted with turfgrass or hardy ground cover. Exceptions to this are as follows:
- (i) Seeding of future expansion as shown on approved plans.
  - (ii) Undisturbed areas containing existing natural vegetation which can be maintained free of foreign and noxious plant materials.
  - (iii) Areas designated as open space for future expansion areas, properly planted and maintained with grass.
- (f) Slopes and Berms
- (i) Final slope grade steeper than the ratio of 3:1 will not be permitted without special approval or treatment, such as terracing or retaining walls.
  - (ii) Berming used to provide required screening of parking lots and other open areas shall not have a slope to exceed 3:1.

(g) Distribution of Plantings  
Required plant materials shall be distributed proportionately on the site, with priority given to front yard setback areas.

(h) Modification of Landscaping Requirements  
Based on unusual conditions, or in consideration of landscape architecture approaches, or when existing trees are retained, or when larger size plantings are provided as part of the overall landscape plan, or when more shrubs may be appropriate versus more trees (and vice versa), the Zoning Administrator may allow alterations to the requirements, as long as improvements achieve an equivalent or greater level of landscaping for the site.

(4) Plant Materials

(a) Plant Selection  
Plant materials provided in conformance with the provisions of this Ordinance shall be of nursery quality and shall be capable of withstanding the extremes of individual site microclimates.

(b) Minimum Size of Plantings

- (i) Overstory deciduous: One and one-quarter (1 ¼ ) inch diameter.
- (ii) Coniferous: Four (4) feet in height.
- (iii) Shrubs: Twelve (12) inches in height.
- (iv) Ornamental trees: One and one-quarter (1 ¼ ) inch diameter.

(c) Unsuitable Trees

The following weak-wooded and generally undesirable trees, for urban conditions, are discouraged for use in meeting any of the requirements of this Article:

- (i) European Mountain Ash
- (ii) European White Birch
- (iii) Mulberry
- (iv) Poplar
- (v) Purple-leaf Plum
- (vi) Russian Olive
- (vii) Siberian Elm
- (viii) Silver Maple

(d) Prohibited Trees

The following weak-wooded and generally undesirable trees, for urban conditions, shall be prohibited for use in meeting any of the requirements of this Article:

- (I) Ailanthus (Tree of Heaven)
- (ii) Box Elder
- (iii) Cottonwood
- (iv) Willow

(5) Landscape Maintenance

The owner of the premises shall be responsible for the watering, maintenance, repair and replacement of all landscaping, fences, and other landscape architectural features on the site. All planting beds shall be kept weed free. Plant material which has died shall be replaced with equivalent vegetation within twelve (12) months.

(6) Landscaping Schedule

All landscaping improvements are to be completed within twelve (12) months of permit issuance or on a schedule approved by the Zoning Administrator.

(I) Screening

(1) Off-Street Parking Area Abutting a Public Street

Any off-street parking area shall provide a minimum five (5) foot green area in the front yard setback between the lot line and the paved surface of the parking lot, except in the C-3 Central Commercial District, a minimum three and one-half (3 2) foot green area shall be provided. This green area shall be landscaped with a combination of shrubs, trees and ground cover. Plant material shall consist of conifer and deciduous species. Non-planted areas of this green area shall not be paved, but shall either be covered with a weed barrier and mulched, or planted with ground cover, or both. The green area shall be well maintained and plantings promptly replaced if dead or diseased. Upon completion of the approved landscape improvements, a certificate of compliance shall also be submitted by the owner or agent.

(2) Off-Street Parking Area Abutting Residential Districts

Any off-street parking area shall provide a solid fence, solid wall or dense hedge/evergreen shrub border at least five (5) feet high along all lot lines abutting a residential district, except in the required front yard. Where the parking area abuts an alley, a five (5) foot green area as required for parking lots abutting a public street, may be substituted for the required fence.

(3) Off-Street Parking Area Abutting Another Off-Street Parking Area

Except for single family and two family uses, any off-street parking area abutting another off-street parking area shall provide a five (5) foot minimum green area between the lot line and the parking area. This green area shall be landscaped with a combination of shrubs, trees and ground cover.

- (a) Where either or both adjoining properties are less than sixty (60) feet in width, parking areas on either property which is less than sixty (60) feet in width may be constructed to the lot line without a parking area setback or green area required.

(4) Refuse Disposal Area

All developments, except single family and two family developments, shall provide a refuse disposal area. Such area shall be screened on four (4) sides (including a gate for access) by a solid, commercial-grade wood fence, wall, or equivalent material with a minimum height of six (6) feet and not greater than seven (7) feet in accordance with the provisions of this Article.

(5) Mechanical Equipment Screens

All roof top and ground level mechanical equipment and utilities shall be fully screened from view of any street or residential zoning district.

(J) Wireless Telecommunication Towers and Antennas

(1) Applicability

(a) New Towers and Antennas

All towers or antennas constructed after September 1, 1997 shall be subject to all applicable standards of this paragraph (J).

- (b) Preexisting Towers and Antennas  
Any tower or antenna for which a permit has been properly issued prior to September 1, 1997, shall not be required to meet the requirements of this paragraph (J), other than the requirements of subsection (2) below. Any such towers or antennas shall be referred to hereinafter as "preexisting towers" or "preexisting antennas".
- (c) Amateur Radio and Receive-Only Antennas  
This paragraph (J) shall not apply to any tower, or the installation of any antenna, that is under seventy (70) feet in height and is owned by a federally licensed amateur radio station operator or is used exclusively for a receive only antenna.

(2) General Requirements

- (a) Building Codes; Safety Standards  
To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable State or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time.
- (i) If, upon inspection, the Building Inspector concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall immediately bring such tower into compliance with such standards. Failure to bring such tower immediately into compliance shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (b) State or Federal Requirements  
All towers shall meet or exceed current standards and regulations of the FCC, FAA and any other agency of the State or Federal Government with the authority to regulate towers and antennas.
- (c) Collocation
- (i) Any proposed telecommunication tower and tower site shall be designed in all respects so as to accommodate collocation of the applicant's antennas(s) and at least two (2) additional users. Towers and tower sites shall be designed to allow for future rearrangement of antennas upon the tower, to accept antennas mounted at varying heights, and to accommodate supporting buildings and equipment.
- (ii) The holder of a permit for a tower shall allow collocation for at least two (2) additional users and shall not make access to the tower and tower site for an additional user economically unfeasible. If additional user(s) demonstrate (through an independent arbitrator or other pertinent means) that the holder of a tower permit has made access to such tower and tower site economically unfeasible, then the permit shall become null and void.
- (d) Antenna Height  
Antenna height shall not be restricted, provided such device is installed and maintained in accordance with applicable State and local building codes, and in compliance with current standards of the FAA, FCC and any other agency of the

State or Federal government with the authority to regulate antennas.

- (e) Tower Height: One hundred fifty (150) feet maximum.
- (f) Separation Between Towers  
Separation distances between towers shall be applicable for a proposed tower and any preexisting towers. The separation distance shall be measured by a straight line between the base of an existing tower and the base of a proposed tower.

**SEPARATION BETWEEN TOWERS TABLE**

NEW TOWER TYPE	EXISTING TOWER TYPE			
	Lattice	Guyed	Monopole 75 Ft in Height or Greater	Monopole Less Than 75 Ft in Height
Lattice	5000 ft	5000 ft	1500 ft	750 ft
Guyed	5000 ft	5000 ft	1500 ft	750 ft
Monopole 75 Ft in Height or Greater	1500 ft	1500 ft	1500 ft	750 ft
Monopole Less Than 75 Ft in Height	750 ft	750 ft	750 ft	750 ft

- (g) Availability of Suitable Existing Towers, Other Structures or Alternative Technology  
No new tower shall be permitted unless the applicant demonstrates that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. Evidence submitted to determine that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
  - (i) No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
  - (ii) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
  - (iii) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
  - (iv) The proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the proposed antenna.
  - (v) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
  - (vi) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

- (vii) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/ receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- (h) Aesthetics
  - (i) Towers shall maintain either a galvanized steel finish or subject to any applicable standards of the FAA, be painted a light grey, so as to reduce visual obtrusiveness and blend in to the natural setting and built environment.
  - (ii) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.
  - (iii) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (i) Lighting

Towers shall not be artificially illuminated unless required by the FAA or any other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- (j) Fencing

A tower shall be enclosed by security fencing not less than six (6) feet in height and secured so that it is not accessible by the general public. Fence design, materials and colors shall reflect the character of the surrounding area.
- (k) Landscaping

A buffer of plant materials to effectively screen the tower compound from public view and from adjacent properties shall be provided. The minimum buffer shall consist of a landscape strip at least five (5) feet in width outside the perimeter of the tower compound. Existing mature tree growth and natural land forms shall be preserved to the maximum extent possible. In some cases, such as towers placed on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer.
- (l) Accessory Equipment and Buildings
  - (i) Antennas mounted on structures or rooftops: The equipment cabinet or structure used in association with an antenna may be located on a roof. Equipment storage buildings or cabinets shall comply with all applicable building and zoning code requirements.

- (ii) Antennas mounted on utility poles, light poles or towers: The equipment cabinet or structure used in association with an antenna shall be sited in accordance with the development standards of the underlying zoning district. Equipment cabinets or structures shall be screened from view by an evergreen hedge or other suitable landscape treatments, except where the use of non-vegetative screening would better reflect and complement the architectural character of the surrounding neighborhood.
  - (m) Signs  
No signage or advertising is allowed to be placed on a wireless communication tower.
  - (n) Setbacks  
The following setbacks shall apply to all towers and antennas:
    - (i) Towers shall be setback from any residential structure a minimum distance that is equal to the height of the tower.
    - (ii) Towers, guy wires, and accessory facilities must satisfy the minimum zoning district setback requirements.
- (3) Permitted Uses  
The installation of a tower or antenna, including the placement of buildings or other supporting equipment used in connection with said tower or antenna, is permitted in all industrial zoning districts.
  - (a) Antennas or Towers on Existing Structures  
An antenna or tower may be situated on the roof of a commercial, industrial, professional, institutional or municipal structure provided that such device is installed and maintained in accordance with applicable State or local building codes, and complies with current standards of the FAA, FCC and any other agency of the State or Federal government with the authority to regulate antennas.
    - (i) Antennas installed on a structure other than a new communication tower, or antennas installed on an existing communication tower shall be permitted where located on property owned, leased or otherwise controlled by the City, irrespective of zoning district, provided that a lease or other agreement to authorize such antenna or tower has been approved by the City.
  - (b) Antennas on Existing Towers  
The attachment of a new antenna on an existing tower may be allowed, to minimize adverse visual impacts associated with the proliferation and clustering of towers, provided that:
    - (i) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same type as the existing tower, unless reconstructed as a monopole.
    - (ii) An existing tower may be modified or rebuilt to accommodate the collocation of additional antenna and may be moved on-site within fifty (50) feet of its existing location, but the relocation may only occur one time per communication tower.
    - (iii) After a tower is rebuilt to accommodate collocation, only one tower may remain on site.

(iv) The on-site relocation of a tower which comes within the separation distances to residential units or residentially zoned lands shall only be permitted when approved by the City.

(c) Cable Microcell Network

The installation of a cable microcell network may be permitted through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

(4) Conditional Uses

The installation of towers and antennas, including the placement of accessory equipment or buildings, may be allowed by conditional use permit in all commercial zoning districts. In addition to the standards identified in this paragraph (J), any request for a conditional use permit must also comply with the standards identified in Section 30-11 Conditional Use Permits.

(5) Removal of Abandoned Antennas and Towers

An antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within ninety (90) days of receipt of notice from the City notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within ninety (90) days shall be grounds to remove the antenna or tower at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(6) Nonconforming Uses

See Section 30-4 Nonconforming Use Regulations.

(K) Exterior Lighting Standards

(1) The purpose of this Section is to regulate the spill-over of light and glare on operators of motor vehicles, pedestrians, and land uses in the vicinity of a light source in order to promote traffic safety and to prevent the creation of nuisances.

(2) The requirements of this Section apply to all private exterior lighting within the jurisdiction of this Chapter, except for lighting of public right-of-way.

(3) Any and all exterior lighting shall be depicted as to its location, orientation, configuration, and footcandles on the site plan required of the subject property.

(4) Requirement:

(a) In no instance shall an exterior lighting fixture be oriented so that the lighting element (or transparent shield) is visible from an adjacent property or street right-of-way. The use of shielded luminaries and careful fixture placement is encouraged so to facilitate compliance with this requirement.

(b) In no instance shall the amount of illumination attributable to exterior lighting, as measured at the property line, exceed 0.50 footcandles above ambient lighting conditions on a cloudless night.

(c) Light fixtures, except of landscape oriented light fixtures, shall not be located within required setbacks.

(d) Flashing, flickering, moving and/or other lighting which is a nuisance or may distract motorists, such as red, yellow or green lights near traffic signals are prohibited.

(e) All areas designated on required site plans for vehicular parking, loading, or circulation and used for any such purpose after sunset and before sunrise shall provide artificial light in such areas at a minimum intensity of 0.4 footcandles, except

for single family and two family dwellings.

(L) Home Occupation Regulations

(1) Purpose

The purpose of this subsection is to provide for the regulation of limited non-residential uses conducted within residential living units to ensure their compatibility with surrounding residential properties and uses.

(2) Definition

Any occupation or business conducted from or within a residential dwelling unit or its accessory structure that is clearly incidental and subordinate to the primary residential use.

(3) Uses

(a) Permitted Uses

- (i) Professional home office or art studio.
  - Examples include but are not limited to the offices of architects, attorneys, accountants, realtors, insurance agents, engineers, brokers, potters, sculptors, painters, photographers, etc.
- (ii) Personal and business services, by appointment only and limited to no more than 2 clients at any time.
  - Examples include but are not limited to tailoring, catering, small appliance repair, taxidermy, barber services, tattoo/body piercing, locksmithing, etc.
- (iii) Retail or wholesale uses, conducted entirely by Internet, mail and/or off-site.
- (iv) Educational and/or instructional uses, by appointment only and limited to no more than 2 pupils at any time.
  - Examples include but are not limited to art, photography, dancing, music, home crafts, jewelry making, cooking, carpentry, etc.
- (v) Gardening and other agribusiness where product is produced on the premises but where sales are conducted off-site.
- (vi) Any use not specifically listed above that is similar in nature and equivalent in impact to those above, as determined by the Zoning Administrator.

(b) Prohibited Uses

- (i) Retail or wholesale use, except as listed above.
- (ii) Commodity or equipment rental.
- (iii) Restaurant, tavern or club.
- (iv) Amusement/entertainment establishments.
- (v) Uses involving the care, grooming, breeding or keeping of animals.
- (vi) Uses that create offensive noise, vibration, odor, smoke, dust, heat, glare or other disturbances other than what is normally produced by a dwelling unit used solely for residential purposes.
- (vii) Automotive service and/or sales.
- (viii) Uses that dispatch persons or equipment from the premises, other than the occupant of the residence.
- (ix) Any use not specifically listed above that is similar in nature and equivalent in impact to those above, as determined by the Zoning Administrator.

(4) General Regulations/Standards

- (a) The home occupation shall be carried on wholly within the residential dwelling unit or accessory structure by:

- (i) A member of the family residing in said unit.
  - (ii) One (1) person who is not an actual resident of the dwelling unit.
- (b) No home occupation shall have outside employees and/or customers between the hours of 8:00 p.m. and 8:00 a.m.
- (c) No mechanical equipment/machinery shall be used other than is usual, customary and incidental to the residence for domestic or hobby purposes.
- (d) There shall be no outside display or storage of goods, equipment or materials used in connection with the home occupation.
- (i) No vehicles, trailers or other accessory items, other than those permitted for residential dwellings, shall be permitted to be stored on-site.
- (e) Except for articles produced on the premises, no stock in trade shall be stored or displayed on the premises.
- (f) Permitted home occupations conducted within the residential dwelling unit shall not exceed 20% of the total floor area or 300 square feet, whichever is less.
- (i) The use of an existing garage or accessory building (shed, utility building, boat house, etc) for the home occupation shall be permitted, with the provision that the property maintains the required number of legal off-street parking spaces, as defined in the zoning ordinance.
- (g) There shall be no exterior indication that the home occupation exists.
- (i) No signage or on-site advertising is permitted.
  - (ii) No external alterations or special construction of the premises are permitted, such as the creation of a separate or exclusive business entrance.
- (h) On-Site Parking is Required. Parking spaces shall be separate from and in addition to those required for the residential use and shall be required as below:
- (i) One (1) legal on-site parking space shall be provided for the home occupation use.
  - (ii) One (1) legal on-site parking space be provided for an employee, if applicable.
  - (iii) Driveway/stacked spaces (paved area leading to residential parking spaces) may be used to satisfy the on-site parking requirements for a home occupation.
- (i) There shall be no commodities sold or services rendered that require receipt or delivery by means other than a passenger vehicle or by *U.S. Postal Service, UPS, FedEx* or similar delivery service customary to residential uses.
- (5) Permit Process
- (a) Permit Required. The use of a residence for home occupation purposes as set forth in this section shall require a permit from the Department of Community Development.
- (i) The applicant shall submit a completed application and any supporting documentation to the Department of Community Development.

- (ii) A permit shall not be issued until the Zoning Administrator determines that the proposed home occupation complies with the standards as set forth in this ordinance.
    - (iii) Should the Department of Community Development determine that the proposed home occupation does not conform to the standards, the home occupation application shall be denied.
  - (b) A permit for home occupation is valid for 12 months annually (January – December). It must be renewed every year, subject to the provisions of this section.
- (6) Special Permit Provisions
- (a) Approvals/permits required by other regulatory bodies, such as the Health, Police or Fire Departments must be submitted prior to the issuance of the home occupation permit.
  - (b) A permit for a home occupation is issued to an individual person. It is not transferable to any other resident, address or other occupation. Upon termination of the permit holder's residency, the home occupation permit shall be null and void.
  - (c) A permit for a home occupation shall be revocable by the Zoning Administrator due to failure of the owner/operator to observe all requirements of the permit and/or Zoning Ordinance.