

ARTICLE 6

SUPPLEMENTARY DISTRICT REGULATIONS

1. Height Regulations: Chimneys, cooling towers, elevator headhouses, fire towers, grain elevators, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers, spires, church steeples, and 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. In all districts, one additional foot of height above the specified height limitation shall be permitted for each foot of additional yard provided over the minimum requirement on all sides of the lot.
2. Yard Regulations:
 - A. Minimum Yard Requirements: The yard requirements heretofore established shall be adjusted in the following cases:
 1. Where the property fronts on a collector or an arterial street, as identified in the Lyndon Comprehensive Plan, the required front yard shall be modified as follows:
 - a. Arterial Street: The front yard setback shall be measured from the centerline of the street and shall be equal to the requirement of the particular zoning district plus 50 feet.
 - b. Collector Street: The front yard setback shall be measured from the centerline of the street and shall be equal to the requirement of the particular zoning district plus 40 feet.
 - c. Local Street: The front yard setback shall be measured from the centerline of the street and shall be equal to the requirement of the particular zoning district plus 40 feet.
 - B. Where the property fronts on two intersecting streets (a corner lot), such lot shall maintain a front yard setback on both streets, except in the following cases:
 1. Where no lots within the same block front on one of the two intersecting streets, the side yard requirement along such street shall be 15 feet, subject to the provisions of paragraph A.1.c above.
 2. Double frontage lots shall maintain the required front yard setback along both frontages.
 - C. Where 50 percent or more of the frontage on one side of a street between two intersecting streets is developed with structures that have observed a front yard greater than required, then:

1. Where a structure is to be erected on a parcel of land that is within 100 feet of existing structures on both sides, the minimum front yard setback shall be a line drawn between the two closest front corners of adjacent structures on the two sides; or,
2. Where a structure is to be erected on a parcel of land that is within 100 feet of an existing structure on one side only, such structure may be erected as close to the street as the existing adjacent structure.
3. Accessory Structures: Unless otherwise provided, no accessory structure shall be erected in any required or established front yard, or a required side yard and no detached accessory structure shall be erected closer than five feet to the principal structure on the lot. Accessory structures may be located in the rear yard, but shall not be closer than five feet to the rear lot line and shall not be closer to the side lot line than the required side yard setback of the district. No accessory structure shall cover more than 30 percent of the required rear yard. The following permitted accessory structures and uses shall be allowed in any zoning district in connection with any permitted principal use:
 - A. A structure for storage incidental to a permitted use; provided, however, that no storage structure that is accessory to a residential building shall exceed 200 square feet in gross floor area, the use shall be in keeping with the principal structure, and no part of such structure shall be located in the front yard setback.
 - B. A child's playhouse, provided it shall not be more than 120 square feet in gross floor area, and it shall not be located in the front yard setback.
 - C. A detached garage or other accessory structure, no greater in gross floor area than ten percent of the lot area, provided that no part of such structure exceeds 800 square feet in gross floor area; and shall not exceed 12 feet in height at the sidewall.
 - D. A private swimming pool and bathhouse, provided that a swimming pool shall be allowed within required rear and side yards.
 - E. Statuary, arbors, trellises, flagpoles, fences; walls and hedges shall be allowed within the required setback areas.
 - F. Signs, when permitted by these Regulations and by the individual district regulations.
 - G. Off-street parking and loading spaces, as permitted by of these regulations.
 - H. Restaurants, drug stores, gift shops, clubs, lounges and newsstands, when located in a permitted hotel, motel or office structure.
 - I. Employee restaurants and cafeterias, when located in a permitted business, manufacturing or industrial structure.

- J. Storage or use of accessory uses, such as boats, boat trailers, camping trailers, or converted buses or trucks; except that such uses shall be allowed within required rear yards and within established side yards if placed upon a hard surface as defined in the off-street parking regulations. Such uses shall not include the outdoor storage or parking of commercial trucks or buses which exceed a three ton manufacturer's rating hauling capacity in a residential district.
 - K. Satellite dish antennas, except that such accessory structures shall not be allowed within established front yards.
 - L. Home occupations subject to limitations set forth in Section 11 of this Article.
4. Use Limitations of Accessory Structures: Accessory structures and uses shall comply with the use regulations applicable in the zoning district in which they are located, but no accessory structure shall be occupied on any lot prior to the time of the completion of the construction of the principal structure to which it is accessory.
 - A. No accessory structure shall be used for dwelling purposes.
 - B. Portable storage metal container/c-van in "R-1", "R-2", and "R-3" Districts are allowed only for the duration of the building permit.
 5. Number of Structures and Uses on a Zoning Lot: Where a lot or tract is used for other than a single-family dwelling, more than one principal use and structure may be located upon the lot or tract, but only when the structure or structures conform to all requirements for the district in which the lot or tract is located.
 6. Sight Triangle: On a corner lot in any district, except "C-1", development shall conform to the requirements of the sight triangle as defined by this regulation.
 7. Access to Business and Industrial Districts: No land which is located in a residential district shall be used for a driveway, walkway or access to any land which is located in any business or industrial district.
 8. Temporary Uses Permitted:
 - A. Christmas Tree Sales: Christmas tree sales in any business or industrial district for a period not to exceed 60 days. Display of Christmas trees need not comply with the yard and setback requirements of these regulations, provided that no trees shall be displayed within 30 feet of the intersection of the curb line of any two streets.
 - B. Contractor's Office: Contractor's office and equipment sheds (containing no sleeping or cooking accommodations) accessory to a construction project and to continue only during the duration of such project.

- C. Real Estate Office: Real estate office (containing no sleeping or cooking accommodations unless located in a model dwelling unit) incidental to a new housing development to continue only until the sale or lease of all dwelling units in the development.
 - D. Seasonal Sales: Seasonal sale of farm produce grown on the premises, in an "R-S" District. Structures incidental to such sale need not comply with the applicable front yard requirements if the structures are removed or moved back of the required front yard setback line at the end of the season during which they are used.
 - E. Carnivals and Circuses: A carnival or circus, but only in an "R-S", "C-1", "C-2", or "I-1" District, and then only for a period that does not exceed three weeks. Such use need not comply with the front yard requirements, provided that structures or equipment which might block the view of operators of motor vehicles on the public streets shall conform to the requirements of the sight triangle as defined by these regulations.
 - F. Housing: During construction of the principal residential structure, a basement, garage, camper or manufactured home may be utilized for temporary housing of full-time, regular workers for a period not to exceed six months. The Zoning Administrator may extend the period six additional months upon showing of good cause by the owner. Upon conclusion of the permitted time period or completion of the principal structure, whichever occurs first, the owner shall remove the temporary housing or make the necessary changes for the property to be in conformance with the regulations of the district in which the property is located.
 - G. Garage or Porch Sales: The sale of used or second-hand merchandise shall be permitted in any district providing that such use shall not exceed three consecutive days in duration nor shall it occur more than twice each year at any particular location.
9. Determination of Structure Setback Line: The structure setback line shall be determined by measuring the horizontal distance between the property line and the vertical plane of the furthest architectural projection of the existing or proposed structure; except that certain architectural projections listed below may extend beyond the structure setback line, subject to the following conditions:

ALTERNATE A:

- A. Projections for new construction shall conform to the provisions of the adopted International Building Code in effect at the time of application, with regard to construction details, property setbacks and public property encroachment.
- B. Projections shall be defined as: Any structural or non-structural portion or appendage attached to the main structure which by design protrudes outward beyond the structure floor; wall, roof or foundation line. Projections include, but are not limited to:

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|------------------------------|--|
| 1. Roof eaves | 6. Dormers |
| 2. Cornices | 7. Combustible or Non Combustible
Ornamentation |
| 3. Porches | 8. Soffitts |
| 4. Stairs | 9. Balconies |
| 5. Bay and Egress
Windows | |

C. Architectural or structural projections from structures shall be measured from the outside of the structure floor, wall, roof or foundation line, which is directly adjacent or parallel to the projection.

ALTERNATE B - Projections into Required Yards:

A. Certain architectural features may project into required yards or courts as follows:

1. Cornices, canopies, eaves or other architectural features may project a distance not exceeding two and one-half feet.
2. Fire escapes may project a distance not exceeding four and one-half feet.
3. An uncovered stair and necessary landings may project a distance not to exceed three feet; provided that such stair and landing shall not extend above the entrance floor of the structure except for a railing not exceeding four feet in height.
4. Bay windows, balconies, and chimneys may project a distance not exceeding two feet; provided that such features do not occupy, in the aggregate, more than one-third of the length of the structure wall on which they are located.

B. Patios may be located in side and rear yards; provided further, that they are not closer than three feet to any adjacent property line.

C. Fences, walls and hedges may be located in required yards as follows:

1. If not exceeding at any point eight feet in height above the elevation of the surface of the ground at such point, they may be located in any required yard or court, provided that on a corner lot, abutting in the rear the side lot line of another lot in a residential district, no such fence, wall or hedge within 25 feet of the common lot line shall be closer to the side street lot line than one-half the least depth of the front yard required on such other lot fronting the side street.

2. On any corner lot, no fence, wall, hedge, or other structure or planting more than three feet in height above curb level shall be erected, placed, or maintained within the triangular area formed by the intersecting street lines and a straight line joining said street lines at points whose distance from the point of intersection is equal to the sum of the required front and exterior side yards.
10. Fences: Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences:
- A. No fence shall be constructed which will constitute a traffic hazard.
 - B. No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals.
 - C. 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.
 - D. No fence except fences erected upon public or parochial school grounds or in public parks and in public playgrounds shall be constructed of a height greater than four feet in the front yard or side street line; or six feet elsewhere; provided, however, that the Planning Commission may, as a special use, authorize the construction of a fence higher than eight feet if the Planning Commission finds the public welfare is served. A fence may not be constructed in the front yard or beyond the front platted building line of any lot containing a residential use.
 - E. The following fencing shall be prohibited from use as perimeter fencing in residential developments.
 1. Fencing materials of a temporary or short-lived nature such as safety fencing, snow fencing, "T post" construction, netting or other similar fencing as determined by the Planning and Zoning Department;
 2. Chain link fencing with installed slats of vinyl or similar material; and
 3. Barbed wire, razor wire or other material that is determined to pose a safety concern as determined by the Planning and Zoning Department.
 - F. No fencing shall be constructed beyond platted lot lines. For unplatted property, no fence shall be constructed within fifteen (15) feet of any street right-of-way.
 - G. All fences shall be constructed with the finished side facing outward from the property. The posts and support beams shall be on the inside or shall be designed as an integral part of the finished surface.
 - H. A permit to install or modify a fence shall be obtained from the Zoning Administrator. Pre-existing, nonconforming fence shall be exempt unless 50% or more of the fence is

replaced or repaired, which shall require the entire fence to come into compliance with these regulations.

11. Home Occupations: Home occupations shall be permitted in all districts permitting dwellings.

A. Restrictions and Limitations:

1. The home occupation shall be incidental and subordinate to the principal residential use of the premises and not more than 25 percent of the floor area of any one floor of a dwelling unit shall be utilized for a home occupation.
2. All materials or equipment used in the home occupation shall be stored within an enclosed structure.
3. No alteration of the exterior of the principal residential structure shall be made which changes the character thereof as a dwelling.
4. No sign shall be permitted except as allowed by Article 8 of these regulations or unless required by State Statute. If required by State Statute, shall not exceed two 2 feet in any one direction, shall not be illuminated and shall not be placed closer to the front property line than one-half the distance of the front yard No sign shall be permitted except as allowed by Article 8 of these regulations or unless required by State Statute. If require by state statute the sign shall not exceed two (2) feet in any one direction, shall not be illuminated and shall not be placed closer to the front property line than one-half the distance of the front yard.
5. Owner of the home occupation business shall be an occupant of the home.
6. No equipment shall be utilized that creates a nuisance due to noise, odor, emissions or electrical interference.
7. Vehicular traffic generated by the home occupation shall not be abnormal for local residential traffic volumes.
8. Parking generated by the home occupation shall not be permitted in the required front yard except that the existing driveways may be used.

B. Particular Home Occupations Permitted: Customary home occupations include, but are not limited to, the following list of occupations; provided, however, that each listed occupation is subject to the requirements of (1) through (8) above:

1. Art, dancing, and music schools provided that instruction is limited to five pupils at one time.
2. Professional offices for architects, engineers, planners, lawyers, accountants, bookkeepers, and similar professions.

3. Offices for realtors, insurance agents, brokers, sales representatives, and manufacturing representatives when no exchange of tangible goods is made on the premises.
 4. Barber and beauty services, by special use permit, with certain conditions.
 5. Watch, clock, and jewelry repair services.
 6. Radio, television, phonograph, recorder, and small appliance repair services.
 7. Registered family day care homes, licensed day care homes, group day care homes, child care centers, and preschools as defined by the Kansas Department of Health and Environment (KDHE), are permitted by special use permit. In addition, proper licensing by KDHE and/or the Osage County Health Department or other such agencies as may be required by law, shall be required.
 8. Home crafts and hobbies such as model making, rug weaving, lapidary work, cabinet making, etc.
 9. Tailoring, alterations, and seamstresses.
 10. Tool sharpening and filing.
 11. Bed and breakfast, by special use permit, with certain conditions.
- C. Particular Home Occupations Prohibited: Permitted home occupations shall not in any event include the following:
1. Antiques - retail.
 2. Funeral services.
 3. Groceries - retail.
 4. Second-hand merchandise - retail.
 5. Equipment rental.
 6. Automobile and other motor vehicle repair services.
 7. Physicians.
 8. Dentists.
 9. Chiropractors.

12. Swimming Pools:

- A. Shall be located at least ten feet from the nearest property line.
- B. Shall be screened by a solid or semi-solid wall or fence at least six feet, and no closer than four feet from any edge of the pool; and having a density of not less than 80 percent per square foot, where the property on which the pool is located abuts a residential district.

13. Landscaping, Screening and Buffering Regulations:

- A. Intent and Purpose: It is the intent and purpose of this article to establish minimum landscaping, screening, and buffering requirements for new development within the jurisdiction of the City of Lyndon Zoning Ordinance.
- B. Applicability: Landscaping, screening and buffering, as required in this article, shall be provided for all new development, except as specifically exempted in Section 3 of this article.
- C. Exemptions: Improvements or repairs to existing development that do not result in an increase in floor area and changes in use that do not result in an increase in intensity shall be exempt from the regulations of this article.
- D. Transition Buffer General Provisions:
 - 1. Location of Buffers. Transition buffers shall be located along those portions of a site adjoining lots with a different zoning classification.
 - 2. Responsibility for Installing Buffers. The developing property shall always be responsible for providing required buffers.
- E. Transition Buffer Specifications: When a transition buffer is required by this code, such transition buffer shall consist of a planting screen meeting the specifications herein. A landscaped berm or a fence screen meeting the specifications herein may be used in lieu of such planting screen if an exception for such substitution is granted by the Planning Commission.
 - 1. Planting Screens: shall consist of trees, bushes or shrubs of a variety and so planted and kept as to be achieved within thirty-six (36) months after occupancy of the premises to be screened.
 - a. Such screen shall have a minimum height of six (6) feet above grade at any particular point along its length.
 - b. Any two (2) foot square segment of a planting screen shall contain no more than thirty percent (30%) open space affording a direct horizontal view through such screen if such segment is over two (2) feet above grade.

2. Landscaped Berm. Adequate evidence shall be furnished demonstrating that the construction of such berm, along with any necessary culverts and ditching, will not create adverse drainage and flooding conditions on adjacent property.
 - a. Such berm shall be at least thirty (30) feet in width at the base and at least four (4) feet in height, as measured perpendicular to grade level at any point along its length. Side slopes shall have a gradient no steeper than three to one.
 - b. Side slopes of such berm shall be sodded so as to prevent erosion. The top of the berm shall contain a planting screen above except that the minimum height of such planting screen need be no more than three feet above the top of the berm at any particular point along its length. Construction and material of such berm shall be as approved by the Planning Commission.
 3. Fence Screen: shall not be less than eight (8) feet, nor more than ten (10) feet in height above grade level, at any particular point along its length. Any two (2) foot square segment of such screen shall contain no more than thirty percent (30%) open space affording a direct horizontal view through such screen. Construction and material of such fence screen shall be as approved by the Planning Commission.
- F. Transition Buffer Requirements: Landscape buffers shall be provided and maintained when certain land uses are adjacent to one another. This requirement is intended to help ease the land use transition between areas of varying development intensity and to ensure land use compatibility.
1. Determination Transition Buffer Requirements. The following procedure shall be followed in determining if a transition buffer is required. Using the matrix in subsection 4.B *Transition Buffer Requirements* of this article:
 - a. Identify the minimum zoning classification required to accommodate the proposed use. These classifications are listed under "Proposed Zoning" in the first column.
 - b. For Transition Buffer Requirements, identify the actual zoning classification of the abutting site(s). These classifications are listed under the heading "Adjacent Zoning."
 - c. Determine if a transition buffer is required by crossing the previously identified proposed zoning with the adjacent zoning. The letter "R" indicates that a transition buffer is required, otherwise, no transition buffer is required.
 2. Street Trees: One (1) street tree per every forty (40) lineal feet of street frontage shall be required. Street trees shall be installed outside the required right-of-way. Trees shall be placed at fairly even intervals to create a uniform "street tree" appearance along the street frontage. Street trees shall be spaced at fairly even intervals, with the exception of allowances to accommodate physical obstructions such as the

location of utilities and driveways. Street trees shall not be located within intersection site triangles as defined by these regulations.

3. Existing Trees: Existing high quality trees and shrubs shall be preserved to the extent possible. Where a proposal to remove this vegetation could be avoided through modification of site layout and design or where proposed tree and vegetation removal would be detrimental to a site’s overall appearance, function or environmental condition. The Planning Commission may require preservation of such trees and vegetation. No preservation beyond twenty-five (25) percent of the gross acreage of the site may be required. Preservation of high quality vegetation should not restrict the use of property, but should be integrated into overall site design in a manner that will achieve both preservation and functionality.
4. Transition Buffer Requirements.

TRANSITION BUFFER REQUIREMENTS								
ZONING OF PROPOSED DEVELOPMENT	ADJACENT ZONING							
	R-S	R-1	R-2	R-3	MP	C-2	C-1	I-1
R-3	R	R	R		R	R		
C-1								
C-2	R	R	R	R	R			
I-1	R	R	R	R	R	R	R	

- G. Landscaping Plans: Required landscaping, screening and buffering shall be shown on the required site plans, building plans or as an attached landscape plan or plot. These plans shall include material type, quantity, location, size and dimension
- H. Exterior Storage: Except as otherwise permitted by these regulations or during permitted construction on any tract, all exterior storage of equipment, raw materials or finished products shall be fully screened from the view of adjacent parcels and streets by a solid screen fence at least six (6) feet in height. Storage within I-1 Industrial District shall be exempt from screening of exterior storage visible from abutting streets.

Screening and enclosure required for permitted outdoor storage shall be by means of a fence, wall or berm, in combination with landscaping, designed to create a minimum of seventy-five (75) percent opacity. Crates, boxes, trailers or other temporary storage facilities shall not be considered appropriate screening materials. Outdoor storage shall

not interfere with the required and/or approved operation of the site, including but not limited to traffic circulation, parking, open space or aesthetics.

The permitted display of merchandise for sale to the public shall be restricted to a maximum of twenty-five (25) percent of the area of either the front, side or rear yard exclusive of any area of required setback. In no case shall merchandise for sale be displayed in any required set back or parking area, or interfere with pedestrian or vehicular access or parking.

Existing businesses in non-compliance with the requirements of this section shall be required to be in full compliance within one year from the effective date of these regulations, subject to the following considerations:

1. In order to bring an existing business into compliance, an application shall be made to the Zoning Administrator. The application shall include the details of proposed site plan amendments or revisions needed to bring the business into compliance with these regulations. Staff may require the applicant to submit copies of existing site plans and other materials necessary to provide adequate consideration. The Zoning Administrator, as appropriate, shall approve applications and site plan amendments.
2. If following review, the Zoning Administrator determines that these regulations can not reasonably be met an exception to these regulations shall be granted. Such exception shall be based upon the following considerations:
 - a. The exception is unique to the property in question and will not ordinarily be found in the same zone or district; and is not created by an action or actions of the property owner or applicant.
 - b. The exception is the minimum exception necessary.
 - c. The granting of the exception will not create unfair competition with similar uses in the same zone or district.
 - d. The granting of the exception will not adversely affect the rights of adjacent property owners.
 - e. The exception will not be opposed to the general spirit and intent of these regulations.
- I. Refuse: Except during permitted construction on any tract, all waste materials, debris, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes, and located on a paved surface designed for adequate vehicle and removal equipment access and operation. Containers shall be screened from view from adjacent parcels and any streets. Unless the container is contained within the building until time of collection, screening shall be provided by dense landscaping, landforms, by housing the container in a refuse enclosure at least as

tall as the container, or a combination there of. This screen shall provide complete visual screening of the dumpster and be compatible in material and color with the principal structure on the lot.

The owner of any land parcel shall be responsible for keeping that land free of refuse. All exterior storage not included as a permitted accessory use, a permitted use, included as part of a Special Use Permit, or otherwise permitted by these regulations or other City code shall be considered refuse.

14. Wireless Communication Facilities:

- A. Definitions: For the purpose of this section, certain terms or words used herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise:

Amateur Radio. Radio equipment and associated antennas or support structures operated for the purpose of receiving or transmitting communications by a radio station as described in Section 153(g) of Title 47 of the U.S. Code and which is operated under license by the FCC.

Antenna. A whip (omni-directional antenna), panel (direction antenna), disc (parabolic antenna) or similar device used for transmission and/or reception of radio frequency signals.

Antenna Array. More than one whip, panel, disc or similar device used for the same carrier at the same frequency.

Applicant. A person or entity with an application before the City of County for a permit for a wireless communication facility.

AGL (above ground level). The actual height of the wireless communication facility from the ground to the highest part of the mount or the antenna, whichever is higher.

Broadcast Systems. Wireless communication systems that are licensed for the broadcast of AM/FM radio or television.

Camouflage. To paint or mount a wireless communication facility in a manner that requires minimal changes to the host structure and hides the facility in the context of its surroundings on the host structure.

Carrier. A company licensed by the Federal Communications Commission (FCC) that provides wireless communication. A tower builder is not a carrier.

Cellular. A personal wireless service capable of transmitting and receiving voice that operates in the 800 MHz spectrum.

Co-location. The use of a common wireless communication facility or common site by two or more carriers or by one carrier for more than one type of wireless communication

technology and/or placement of two or more wireless communication facilities on adjacent properties.

Commercial Mobile Radio Services (CMRS). Per Section 704 of the Telecommunications Act of 1996, any of several wireless communication technologies using radio signals at various frequencies to send and receive voice, data and video. According to the FCC, these services are "functionally equivalent services." Section 704 of the Telecommunications Act of 1996 prohibits unreasonable discrimination among functionally equivalent services.

Common Carrier Wireless Exchange Access Services. Services by which wireless communication is interconnected with wired communication infrastructure.

Conceal. To enclose a wireless communication facility within a natural or man-made feature resulting in the facility being either hidden from view or made part of the feature enclosing it.

Design. The appearance of wireless communication facilities as determined by selection of materials, colors, size, and shape.

Disguise. To design and construct a wireless communication facility to be an architectural feature of an existing or proposed structure in such a manner that the wireless communication facility not discernible from the remainder of the structure.

Elevation. The measurement of height above sea level. Also AMSL, or above mean sea level.

Enhanced Specialized Mobile Radio (ESMR). Private land mobile radio with telephone services.

Equipment Shelter. An enclosed structure, cabinet, shed, or box at the base of or in the general proximity of a support structure within which are housed the equipment for the wireless communication facility such as radios, batteries, and electrical equipment.

Federal Communications Commission (FCC). An independent federal agency charged with licensing and regulating wireless communication at the national level.

Functionally Equivalent Services. Cellular, PCS, Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging. Section 704 of the Telecommunications Act of 1996 prohibits unreasonable discrimination among functionally equivalent services.

Guyed Tower. Any type of support structure that is supported in whole or in part by cables anchored to the ground or other surface.

Lattice Tower. A type of support structure that consists of an open network of braces forming a tower that is usually triangular or square in cross section.

Location. The area where a wireless communication facility is located or proposed to be located.

Modification. The changing of any portion of a wireless communication facility from its description in a previously approved permit. The FCC definitions for "modification" are different than local government rules.

Monopole. A type of support structure that consists of a vertical pole fixed into the ground and/or attached to a foundation.

PCS (Personal Communication Services). A personal wireless service capable of transmitting and receiving voice, data, text, and video messaging that operates in the 1850-1990 MHz range.

Paging. A personal wireless service that provides tone, text, and limited voice messaging that operates on several frequency ranges, usually in a limited geographic area.

Personal Wireless Services. Any personal wireless service defined in the Federal Telecommunications Act of 1996 which includes Federal Communications Commission (FCC) licensed commercial wireless telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and unlicensed wireless services, and common carrier wireless exchange access services.

Private Dispatch System. Wireless communication systems that are licensed to one user for exclusive use and not to be shared with, or leased to, other users.

Public Service and Emergency System. Wireless communication systems operated by or for a governmental agency for the delivery of emergency or other public services.

Radio Frequency (RF) Engineer. Someone with a background in electrical engineering or microwave engineering who specializes in the study of radio frequencies.

Radio Frequency Radiation (RFR). The propagation of electromagnetic waves through space.

Radio Frequency (RF) Signal. The actual beam or radio waves sent and received by a wireless communication facility. A signal is the deliberate product of a wireless communication facility. The RF emission is the byproduct.

Screening. Decorative fencing or other materials, evergreen vegetation, or landscaped earth berms constructed and maintained for the purpose of concealing a wireless communication facility from view.

Separation. The distance between one carrier's antenna array and another carrier's antenna array.

Site. That portion of a subject property where a wireless communication facility is to be placed. Any acceptable location may have several potential sites within it.

Siting. The method and form of placement of wireless communication facilities on a specific area of a subject property.

Specialized Mobile Radio (SMR). A form of dispatch or two-way communication used by companies that rent space or time from an SMR carrier. Used primarily for delivery vans, truckers or taxis within a small, definable geographic area.

Support Structure. The structure or surface upon which antennas are mounted.

Roof-mounted. Mounted on the roof of a building.

Side-mounted. Mounted on the side of a building.

Ground-mounted. Mounted on the ground.

Structure-mounted. Mounted on a structure other than a building.

Tower. Generally used to describe all wireless communication facilities or sometimes is used to refer only to those wireless communication facilities at high elevations above grade. Also used as a modifier (e.g., tower builder) or when modified (e.g., lattice tower).

Tower Builder. A company or individual that builds or manages support structures for wireless communication facilities.

Unlicensed Wireless Services. Wireless communication services operating on public domain frequencies using duly authorized devices which do not require an FCC license for their sites.

Wireless Cable System. Wireless communication services that provide point-to-multipoint communication for the provision of voice, data, text, and video that operate in the 2.1 to 2.8 GHz range.

Wireless Communication. Comprehensive term describing the wireless services covered by the location/design guidelines of the Plan. Includes the following terms as defined herein: broadcast systems, cellular, commercial mobile radio services, common carrier wireless access exchange services, enhanced specialized mobile radio, functionally equivalent services, personal communication services paging, personal wireless services, public service and emergency systems, specialized mobile radio, tower builder, unlicensed wireless services, and wireless cable system. Does not include amateur radio or private dispatch system.

Wireless Communication Facility. Comprehensive term describing the facilities covered by the location/design guidelines of the Plan. Includes the following terms as defined herein: antenna, antenna array, equipment shelter, guyed tower, lattice tower, location, monopole, site, support structure, and tower.

B. Location/Height Guidelines: The term "guidelines" is used in recognition that deviations from these guidelines can be considered on a case-by-case basis, if consistent with the general spirit and intent of this Regulation.

1. The following wireless communication facilities are permitted by right in any zoning district, subject to the issuance of a building permit, if they conform to the Location/Design Guidelines in this section.

a. New facilities that are concealed in or mounted on top of or the side of existing buildings (excluding single-family and duplex residences) and other structures, including support structures up to 20 feet above the building or the maximum height permitted in the underlying zoning district, whichever is greater.

b. Modification and/or replacement of support structures (light poles, flag poles, electrical poles, private dispatch towers, etc.) that are not significantly more visible or intrusive, including cumulative height extensions of up to 25 percent above the original structure height.

c. New or modified lattice towers no larger than 18 inches wide on any side up to 80 feet in height measured from grade.

d. New disguised ground-mounted facilities up to 85 feet in height.

e. New undisguised ground-mounted facilities up to 65 feet in height in any Residential District.

f. New undisguised ground-mounted facilities up to 85 feet in height in the C-2 District.

g. New ground-mounted facilities up to 150 feet in height in the I-1 District.

If the Zoning Administrator determines that the wireless communication facility does not conform to the Location/Design Guidelines, the building permit should be denied. Denied building permits may be appealed by applying for a Special Use.

2. Wireless communication facilities that exceed the maximum height for a building permit should be reviewed through the Special Use process. Special Use approvals typically should be subject to conditions that maintain conformance with the Location/Design Guidelines in this chapter; however, wireless communication facilities that do not conform to the Location/Design Guidelines may be approved for a Conditional Use on a case-by-case basis as circumstances warrant.

3. There shall be no nighttime lighting of or on wireless communication facilities except for aircraft warning lights or similar emergency warning lights required by applicable governmental agencies. No strobe lights shall be used. Lighting for security purposes should be permitted at the base of wireless communication facilities. Temporary lighting for nighttime repairs is permitted.
4. No signs shall be allowed on an antenna support structure other than those required by applicable governmental agencies.
5. At the time of requesting a Permit for a new ground-mounted wireless communication facility, the applicant shall demonstrate to the satisfaction of the approving authority that:
 - a. there is no available space on existing or approved wireless communication facilities or other structures that can be utilized to meet the applicant's communication needs; and
 - b. there is no other economically and technically feasible opportunity to modify or rebuild an existing structure on which the communication equipment may be located (a rebuilding opportunity will be considered economically feasible if the cost of rebuilding an existing facility is no more than the cost of building a new facility on a new site).
6. At the time of requesting Permit for a wireless communication facility, the owner of a proposed new undisguised ground-mounted wireless communication facility, and the owner of the land, if not the same, shall agree in writing that:
 - a. the support structure is designed, and the ground area is adequate or can be made adequate, to accommodate at least one (1) other carrier, if more than eighty (80) feet in height, and at least two (2) other carriers, if more than 100 feet in height;
 - b. reasonable accommodations will be made to lease space on the facility to other carrier so as to avoid having a proliferation of support structures that are not full utilized; and
 - c. the owner(s) will make available in the future the opportunity for another party to pay the cost to modify or rebuild the structure to support additional communication equipment where economically and technically feasible. Lattice towers no larger than 18 inches on any side are excluded from the co-location requirements of subsection a) of this paragraph.
7. The owner shall be responsible for the removal of unused facilities, including the uppermost 20% of support structures that are unused (except where removal of the uppermost 20% would require the removal of a lower portion the support structure that is in use, in which case the required removal will be raised to the next highest

portion of the support structure not in use), within 60 days if the wireless communication facility, or a portion thereof, has been unused for 12 consecutive months. If such a facility or portion of a facility is not removed by the owner, then the City may employ all legal measures, including, if necessary, obtaining authorization from a court of competent jurisdiction, to remove it, and after removal may place a lien on the subject property for all direct and indirect costs incurred in its dismantling and disposal, including court costs and reasonable attorney fees. Under this paragraph, "owner" includes both the owner of the real property and the owner of the wireless communication facility, whether such ownership is divided or in the same person.

8. New support structures shall not be located in the flight paths of local airports where they would constitute a potential hazard to air safety.
9. All wireless communication facilities shall comply with all federal, state, and local rules and regulations. Wireless communication providers are particularly encouraged to seek the following new locations for new facilities:
 - a. Mounted on top or the side of multistory buildings and other structures, appropriately concealed, screened, disguised or camouflaged.
 - b. On existing poles in street rights of way, including telephone poles, electrical transmission and distribution poles, street lights, and traffic signal stanchions; on existing parking lot and athletic field/stadium light standards; and on modified or rebuilt poles that are substantially similar in appearance.
 - c. On existing support structures, including those constructed for personal wireless services, AM/FM radio and television broadcast, school district microwave antennas and private dispatch systems.
 - d. In wooded areas.
 - e. At certain City owned properties, where the size and nature of the use does not interfere with other functions and allows for compatible siting; these may include water towers, large park areas, sewer treatment plant sites and maintenance yards.

C. Design Guidelines

As a general rule, the less visible and obtrusive a proposed wireless communication facility is, the more acceptable it will be to the community. The visibility of facilities can be minimized by techniques such as concealment, disguise, camouflage, and sensitive design and siting. Specific guidelines include:

1. Preserving the pre-existing character of the area as much as possible.

2. Minimizing the height, mass or proportion of the facility to minimize conflict with the character of its proposed surroundings.
3. Minimizing the silhouette presented by new support structures and antenna arrays. Generally, monopoles are favored over lattice-type support structures to a height of at least 150 feet, and antennas mounted flush to the support structure are favored over triangular "top-hat" antenna arrays.
4. Using colors, textures and materials that blend in with the existing environment; under some circumstances, surfaces should be painted, or otherwise treated, to match or complement existing background structures and surfaces, or the sky, as appropriate, and to minimize reflection. Painting support structures red and white may also be necessary to avoid strobe lighting that would otherwise be required by applicable governing agencies.
5. Concealing facilities within potential space in or on existing structures, or disguised to look like another type of facility, like a flagpole, clock tower, or church steeple.
6. Placing facilities in areas where trees and/or buildings obscure some or all the facility from view, and installing new plantings/screening around the site where visible from major street or residential areas.
7. Placing facilities on existing walls, flush-mounted, or on roofs building (excluding single-family and duplex) and structures, up to 20 feet above the existing structure, as opposed to building new ground-mounted support structures. Facilities on rooftops generally should be set back from roof edges or screened from view.
8. Screening equipment shelters and cabinets through landscaping, walls and/or fencing, as appropriate to the surroundings and generally consistent with the City's screening regulations. In most cases, ground-level equipment should respect the setbacks for accessory uses in the applicable zoning district and be enclosed by 6-8 foot height security fencing, of a material compatible with its surroundings. Equipment should be encouraged indoors if space is available nearby. Burying equipment in an underground vault, to keep most of the equipment out of sight, may be necessary in rights of way and in some other visually/environmentally sensitive locations, such as tourist attractions, historic landmarks/districts, museum district, river corridor, and other locations of civic importance or architectural significance.

Ground level shelters/equipment, appropriately screened and generally landscaped with trees and/or shrubs, should be permitted on lots adjacent to rights of way, to facilitate the use or reconstruction of utility poles in those rights of way.

9. Permitting lighting on facilities only if required by federal regulations, and not by strobes (except by variance).

D. Submittal Requirements

The following information shall be submitted at the time of filing an application for a building permit.

1. General:

- a. Name/signatures of applicants, owners of land and/or facilities if different, and agents if any.
- b. Written statement acknowledging and agreeing to the responsibilities under the zoning code (e.g. allowing co-location opportunities on the support structures and at ground level; allowing modification/rebuilding of support structures; removal upon abandonment, etc.).

2. Sitting and design:

- a. A one-inch-equals-200 feet vicinity plan, dimensioned and identifying existing buildings, trees, and other features within 200 feet of the wireless communication facility.
- b. A one-inch-equals-200 feet site plan, dimensioned.
- c. Typical elevations of all facility elements, dimensioned.
- d. Specification of all exterior materials and colors, with drawings, photos or samples as appropriate.
- e. Landscape/screening plan, with all materials and sizes specified.
- f. Appearance shown by at least two photo-simulations for proposed facilities that do not adhere to the location/design guidelines or facilities located in designated visually/environmentally sensitive locations.