

### Sec. 2.3.1 Use-Specific Standards

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#### **A. Applicability.**

1. *Generally.* The use-specific standards listed in this Section apply to those uses listed on the same row of any use where a use-specific standard is listed as applying in the applicable use table in all districts in the City regardless of the required level of approval for the use.
2. *Timing of Compliance.* These standards apply at the time a use is requested for an existing or new structure, or when an existing use is proposed to be expanded by more than 10 percent of the gross square footage currently devoted to the use.

#### **B. Procedures.**

1. All Limited Uses shall be approved in accordance with Sec. 7.3.10.
2. All Uses by Special Review shall be approved in accordance with Sec. 7.4.8.

#### **C. Use-Specific Standards.**

1. *Animal Boarding.* The following standards apply to animal boarding in the MU zoning district as permitted:
  - a. The use shall not be located in a mixed-use building that contains a dwelling unit;
  - b. Noise from the use shall not be audible outside of the building in which the use is located;
  - c. No operations, including dog runs or recreation areas, shall be conducted outdoors; and
  - d. If the use is located in a multi-tenant building, the building shall have ventilation systems to prevent odors and allergens from circulating to other parts of the building.
2. *Car Wash.* Car washes shall be permitted as a principal use when the following standards are met.
  - a. The use is a standalone primary use of the site and not an accessory use;
  - b. The use is automatic and fully enclosed (self-service is prohibited);
  - c. All mechanical equipment is fully enclosed within a building;
  - d. Vacuums and other ancillary equipment shall not be visible from a public right-of-way;
  - e. Facilities shall install and maintain a system that recycles a minimum of 50 percent of the water on-site provided that the recycling water systems and the disposal of water fluids and solids shall comply with applicable state and federal guidelines/standards and must be approved by the Public Works Director;
  - f. Bay access is oriented to prevent headlights from shining onto any street or abutting a residential use; and
  - g. Access to the use is from a collector or lower classification roadway.
3. *Day-Care Center/Preschool.* A day-care center or preschool shall comply with the following.
  - a. The use is located on a lot of at least 10,000 square feet in area; and
  - b. A solid fence or wall six feet in height shall completely enclose any yard that is to be used for any outdoor activities associated with the Day Care Center or Preschool.
4. *Day Care Home.* In addition to any state regulatory requirements, the following standards shall apply to Day Care Home uses:
  - a. The home complies with statutory requirements;
  - b. The home is on a lot of not less than 10,000 square feet;
  - c. A solid fence or wall six feet in height shall completely enclose any yard that is to be used for playground purposes;
  - d. The operator of the home child care use shall reside on the subject property;
  - e. The home child care use shall not generate, in excess of levels customarily found in residential neighborhoods, any noise that is noticeable at or beyond the property line of the premises upon which the home child care use is located; and
  - f. No additional off-street parking shall be created on the subject property for the home child care use.
5. *Dwelling, Live-Work.*

- a. Location. Residential areas shall be located above or behind nonresidential portions of the structure.
- b. Space Limitation. The floor area of the nonresidential portion of the use shall not exceed 3,000 square feet;
- c. Employees. No more than two nonresident employees are permitted in addition to the residents of the dwelling; and
- d. Ownership. The business owner and the residents' occupant in the residential portion of the live-work unit must be the same person.

6. *Dwelling, Multifamily.*

- a. Multifamily Dwellings in the MU District shall comply with the applicable standards in 2.2.6(E) – (I).

7. *Group Homes.*

- a. *Findings.* The City Council finds and determines that the policy of the City is to:

- 1. Provide handicapped persons who are protected under federal and state fair housing legislation equal opportunities to live within all residential zone districts within the City;
- 2. Disperse the location of group homes throughout the City through reasonable separation requirements;
- 3. Comply with the principles, policies and regulations of federal and state fair housing legislation; and
- 4. Support and enhance the viability and quality of neighborhoods and residential communities for the benefit of all City residents.

- b. *Intent.* The intent of this Section is to enable Type A group homes to locate in residential communities and to increase opportunities for integration of these homes in residential neighborhoods. For classes or groups of individuals not protected under federal and state fair housing legislation or for Type A group homes exceeding the occupant limit specified in Subsection D(2) of this Section, these regulations are intended to provide a review process whereby the intended use of a group home is evaluated to determine its compatibility with the surrounding land uses and its conformance with applicable criteria of approval as set forth within this Section.

- c. *Requirements for All Group Homes.* Unless otherwise expressly stated, a Type A or Type B group home must meet the following minimum requirements:

- 5. Licensing. The applicant is or will be licensed by the State of Colorado to operate the facility, or is not required to be licensed.
- 6. Separation. No group home may be located within 750 ft. of any other group home of the same type (e.g., home for the developmentally disabled spaced from home for the developmentally disabled) as measured by a straight line from the closest point of property line to property line.
- 7. Threats to Public Safety. As authorized by 42 U.S.C. § 3604(f)(9), no group home shall provide housing to any individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical danger to the property of others.
- 8. Occupancy Number. No group home shall house more than eight individuals (excluding support personnel) unless approval is granted per Sec. 7.3.10, Request for FHA Reasonable Accommodation.

- d. *Type A Group Homes.*

- 1. Limited Use. Type A group homes are approved as a limited use. As such, the requirements of Sec. 2.3.1.A, Generally, and Sec. 2.3.1.B, Application, apply.
- 2. Housing of More Than Eight Individuals. If an applicant for a Type A group home seeks to house more than eight individuals (excluding support personnel), or is denied a reasonable accommodation to increase the number of occupants within the group home in accordance with Sec. 7.3.10, Request for FHA Reasonable Accommodation, the applicant may seek approval for a Type B group home by a Use by Special Review. See Sec. 7.4.8, Use by Special Review.

- e. *Type B Group Homes.*

1. Use by Special Review. Type B group homes are approved as a Use by Special Review. As such the requirements of Sec. 2.3.2.B, Application, and Sec. 2.3.2.C, Standards Applicable to all Uses by Special Review, apply
2. Approval Criteria. A Type B group may be approved only if the City Council finds that all of the following criteria have been met:
  - a. The applicant is or will be licensed by the State of Colorado or other applicable licensing agency to operate the facility, or is not required to be licensed;
  - b. The proposed occupancy of the group home complies, or will comply, with the requirements of the currently adopted building, fire, and safety codes of the City;
  - c. The individuals intended to reside within the group home would not constitute a direct threat to the health or safety of other individuals or would not result in substantial physical danger to the property of others;
  - d. The proposed group home is compatible with the character of the surrounding uses and the general architectural designs found in the surrounding neighborhood;
  - e. The residents of the group home will not require ongoing or daily medical or psychiatric treatment normally associated with a hospital or medical clinic;
  - f. The group home will not contain more than twelve residents, including resident supervisory personnel;
  - g. The structure in which the group home operates provides a reasonable allocation of square footage of habitable space consistent with the surrounding residential uses; and
  - h. There is an adequate amount of on and off-street parking to accommodate the use and needs of the group home and the number of vehicles used by its occupants.
2. *Micro-Manufacturing.*
  - a. No odor, glare, noise, dust, fumes, or vibrations shall extend beyond the confines of the actual premises upon which the micro-manufacturing use is located.
  - b. Micro-manufacturing shall be limited to goods or products for sale or consumption on site.
  - c. Micro-manufacturing uses shall be limited to 10,000 square feet.
  - d. Outside storage of materials not held for retail sale is allowed only in areas completely screened from the outside view of the premises.
3. *Parking Lot, Off-Site.* An off-site parking lot which is proposed to be located in the MU district is subject to the following standards:
  - a. Necessity. The parking lot shall serve a use for which it is not possible for the applicant to provide sufficient structured, off-street, or on-street parking.
  - b. Distance. The parking lot shall be located within 300 feet of the property on which the building to be served is located measured by the shortest walking distance (using sidewalks and designated crosswalks) from the entrance of the building to the center point of the parking lot.
4. *Parking Structure.* Parking Structures in the MU district shall only be permitted when accessory to a primary use and when the following standards are met.
  - a. Placement. Parking structures shall be built:
    1. As part of a larger complex of development; and
    2. In the rear of the principal building to which it is associated.
  - b. Building Materials and Building Form.
    1. All parking structures with an exposed wall that faces toward any public right-of-way shall have building materials and building form that directly relate to the primary building that the parking structure serves.
    2. Where a parking structure faces a pedestrian-oriented street, the ground floor shall relate to the pedestrian with store fronts, windows, displays, offices or public gathering spaces.
5. *Place of Public Assembly, Indoor.*
  - a. The use shall be located in a permanent structure.

- b. The use shall not create parking or traffic congestion or otherwise unreasonably interfere with the peace and enjoyment of surrounding residences.
  - c. The use shall have a minimum site area that is the greater of two acres.
6. *Utility, Major.* Buildings and structures associated with utility uses shall comply with the minimum required setbacks of the underlying zoning district unless otherwise exempted by this ULDC. Utilities shall comply with the screening requirements in Sec. 3.2.6, unless otherwise exempted by this ULDC.
7. *Research and Development Facility.*
- a. All materials and equipment shall be stored in areas screened from public view.
8. *Sexually-Oriented Businesses.*
- a. *Findings.* Based on evidence concerning the adverse secondary effects of adult uses on the community presented in land use studies made available to the City Council and on findings incorporated in the cases of the City of Littleton v. Z.J. Gifts, 541 U.S. 774 (2004); City of Erie v. Pap's A.M., 120 S. Ct. 1382 (2000); Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); FW/PBS, Inc. v. City of Dallas, 493 U.S. 215 (1990); City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986); Young v. American Mini Theatres, 426 U.S. 50 (1976); Essence, Inc. v. City of Federal Heights, 285 F.3d 1272 (10th Cir. 2002); Z.J. Gifts D-2, L.L.C. v. City of Aurora, 136 F. 3d 683 (10th Cir. 1998); O'Connor v. City and County of Denver, 894 F. 2d 1210 (10th Cir. 1990); City of Colorado Springs v. 2354 Inc., 896 P.2d 272 (Colo. 1995); 7250 Corp. v. Board of County Commissioners for Adams County, 799 P. 2d 917 (Colo. 1990); and Marco Lounge, Inc. v. City of Federal Heights, 625 P.2d 982 (Colo.1981); and on studies in other communities including but not limited to Adams County, Colorado; Dallas, Texas; Denver, Colorado; Garden Grove, California; Whittier, California; Indianapolis, Indiana; St. Paul, Minnesota; Los Angeles, California; Islip, New York; Ellicottville, New York; Las Vegas, Nevada; Rome City, Georgia; Houston, Texas; New York, New York; Oklahoma City, Oklahoma; Phoenix, Arizona; and Tucson, Arizona; and a study prepared by the American Center for Law and Justice dated March 1996; the Castle Pines City Council finds:
    - 1. There are a substantial number of sexually-oriented businesses in the Denver metropolitan area and these uses require special supervision from public safety agencies and municipal regulation in order to protect the health, safety, and welfare of the patrons of such businesses as well as the citizenry;
    - 2. Regulation of sexually-oriented businesses furthers substantial governmental interests and is necessary because, in the absence of such regulation, significant criminal activity, including prostitution, narcotics, and liquor law violations, has historically and regularly occurred;
    - 3. Sexually-oriented businesses are frequently used for unlawful and unhealthful sexual activities, including prostitution and sexual liaisons of a casual nature;
    - 4. The concern over sexually transmitted diseases, including HIV, is a legitimate health concern of the City which demands reasonable regulation of sexually-oriented businesses in order to protect the health and well-being of the citizens;
    - 5. Sexually-oriented businesses have a deleterious effect on both neighboring businesses and surrounding residential areas causing an increase in crime and a decrease in property values;
    - 6. Sexually-oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are often uncontrolled by the operators of the establishments;
    - 7. Some people frequent certain adult theaters, adult arcades, and other sexually-oriented businesses to engage in sex within the premises of such sexually-oriented businesses;
    - 8. Sexually-oriented businesses have serious objectionable characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area;
    - 9. City Council recognizes the possible harmful impact on children and minors exposed to the effects of adult businesses that includes those encountered when children walk through or visit in the immediate neighborhood of such businesses;
    - 10. The City wishes to minimize and control adverse effects and thereby protect the health, safety, and welfare of the citizens; preserve the quality of life; preserve the property values and

character of surrounding neighborhoods; deter the spread of urban blight and protect the citizens from increased crime; and

11. It is not the intent of this Section to suppress any speech protected by the First Amendment but to enact content-neutral regulations that address the secondary effects of sexually-oriented businesses.

b. *Intent.* The intent of this Section is to set reasonable and uniform regulations to prevent the deleterious location and siting of sexually-oriented businesses. These Regulations impose restrictions no greater than necessary to further the City's interest in preventing negative secondary effects attributable to sexually-oriented businesses. This Section is to be construed as a regulation of time, place, and manner of the location of these businesses, consistent with the United States and Colorado Constitutions. The provisions of this Section have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is not the intent or effect of this Section to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment. It is also not the intent of this Section to condone or legitimize the distribution of obscene material or material not protected by the First Amendment.

c. *Location and Siting Requirements.*

1. It is unlawful to operate or cause to be operated a sexually-oriented business in any location except as permitted in Sec. 2.2.7, Mixed-Use District, and subject to the standards established in Sec. 2.3.2, Use by Special Review, procedures in Sec. 7.4.8, Use by Special Review Permit, and licensing approval by the City in conformance with applicable regulations.
2. Sexually-oriented businesses shall be permitted only upon business-zoned properties within the boundaries of the City subject to the siting requirements of subsection C.3 below.
3. No sexually-oriented business shall be located within 350 feet of the following:
  - a. Residentially zoned district;
  - b. Single-family detached, single-family attached, or multifamily dwelling;
  - c. Place of public assembly, park, or library;
  - d. State-licensed day-care facility (child or adult);
  - e. School serving persons age 18 or younger; or
  - f. Any other sexually-oriented business.
4. It is unlawful to cause or permit the operation or maintenance of more than one sexually-oriented business in the same building, structure, lot, parcel, or portion thereof regardless of whether such businesses would be owned or operated by the same owner or lessee.
5. For purposes of this Section, distance requirements between structures and uses specified in this Section, shall be measured in accordance with the following:
  - g. The distance between any two sexually-oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. The distance between any sexually-oriented business and any place of public assembly, school primarily serving persons age 18 or younger, library, public park, dwelling unit (single or multiple), or residentially zoned district shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where the sexually-oriented business is conducted to the nearest lot line of the premises of a place of public assembly, school or dwelling unit (single or multiple) or the nearest boundary of an affected public park, or residential district.
6. A sexually-oriented business lawfully operating is not rendered in violation of this Section by the subsequent location of an area zoned for residential use; single-family detached, single-family attached, or multifamily dwelling; place of public assembly, park, or library; state-licensed day-care facility (child or adult); or school, primarily serving persons age 18 or younger within 350 feet of the sexually-oriented business.

d. *Location and Siting Requirement Exceptions.* The location and siting requirements of this Section shall not apply to the following:

1. Any sexually-oriented business expressly described as an approved use in an annexation agreement or planned development approved by ordinance of the City.
2. Any sexually-oriented business for which a vested property right (within the meaning of Colorado law) was lawfully conferred or established provided that such right remains valid and effective.

e. *Signs and Exterior.*

1. In addition to, and notwithstanding anything to the contrary contained in the sign code or other regulation of the City Zoning Ordinance, sexually-oriented business signs shall be limited as follows:

- a. No more than one exterior sign shall be allowed for any sexually-oriented business;
- b. No animation shall be permitted on or around any sexually-oriented business sign or on the exterior walls or roof of the premises;
- c. No descriptive art, pictures, or designs depicting any activity related to, or inferring the nature of the business shall be allowed on any sexually-oriented business sign. Said signs shall contain alphanumeric copy only; and
- d. Only flat wall, fascia signs shall be permitted not exceeding a total of 50 square feet.

2. It shall be unlawful for the owner or operator of a sexually-oriented business to allow exterior portions of the sexually-oriented business to be painted any color other than shades of brown, beige, tan, or grey. Substitutes may be proposed by the owner or operator which may be accepted by the City upon an administrative determination by the City that such substitute color is compatible with and similar to other neighboring buildings' colors; provided, however, the use of high-intensity colors, primary colors, metallic colors, black or fluorescent colors shall be prohibited. This provision shall not apply to any sexually oriented business if the following conditions are met:

- e. The sexually-oriented business is a part of a commercial or industrial multi-unit center; and
- f. The exterior portions of each individual unit in the commercial or industrial multi-unit center, including the exterior portions of the sexually-oriented business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

3. No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the exterior of the building.

9. *Vehicle Service, Minor.*

a. *Outdoor Display and Storage.* Outdoor display, storage, or sale of merchandise, vehicles, trailers, or other equipment on a permanent, temporary, or seasonal basis shall not be permitted. All vending machines shall be placed within the building. No vehicle awaiting service may be stored on-site for longer than two days.

b. *Access, Circulation, and On-Site Parking.*

1. Access, circulation, and on-site parking shall be designed with sufficient drive aisles and parking areas to avoid potential conflicts between loading and unloading, trash collection and other facility operations, use of emergency access easements and fire lanes, and pedestrian access. On-site circulation shall be adequate to allow vehicles to stack in a line for fuel dispensing services without using or obstructing any portion of an adjacent sidewalk or right-of-way.

2. To the greatest extent possible, access points and driveways must be planned and shared between adjacent properties and access easements must be noted on the site plan.

3. Sidewalks to accommodate pedestrian activity shall be provided. Pedestrian access must be provided from the perimeter of the property to the convenience store or gasoline station.

c. *Servicing.* All vehicle service shall be conducted within a completely enclosed building.

d. *Screening.* Service doors shall be oriented to an internal side or rear yard. If the orientation of a lot is such that service doors must face public rights-of-way, all doors shall be the same color as the primary color of the building and, except for vehicle entry/exit, shall remain closed at all times.

#### 10. Wireless Communication Facilities (WCF)

a. Purpose. The purpose of these provisions is to establish requirements for the siting of Wireless Communications Facilities (WCFs). The goals of these provisions are to:

1. Installation, Maintenance, and Removal. Provide for the managed development and installation, maintenance, modification, and removal of wireless communications infrastructure in the City with the fewest number of WCFs to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services including all of those who install, maintain, operate, and remove WCFs;
2. Health, Safety, and Welfare. Promote and protect the public health, safety, and welfare by reducing the visibility of WCFs to the fullest extent possible through techniques including but not limited to concealment design techniques and undergrounding of WCFs and the equipment associated therewith;
3. Smaller WCFs. Encourage the deployment of smaller, less intrusive WCFs to supplement existing larger WCFs;
4. Wall-Mounted. Encourage the use of wall-mounted panel antennas;
5. Roof-Mounted. Encourage roof-mounted antennas only when wall-mounted antennas will not provide adequate service or are not otherwise feasible;
6. Location. Encourage the location of towers in non-residential areas, in a manner that minimizes the total number of towers needed throughout the community;
7. Collocation. Encourage strongly the collocation of WCFs on new and existing sites;
8. Minimize Adverse Impact. Encourage owners and users of antennas and towers to locate them, to the extent possible, in areas where the adverse impact on the community is minimized;
9. Service Provision. Enhance the ability of wireless communications service providers to provide such services to the community quickly, effectively, and efficiently; and
10. Right-of-Way. Effectively manage WCFs in the right-of-way.

b. Applicability. The requirements set forth in this Section shall apply to all WCF applications for base stations, alternative tower structures, alternative tower structures located within right-of-way, and towers as defined elsewhere herein. The Director shall have the authority to waive any requirement or standard set forth in this Section, if the Director makes a determination that the specific requirement or standard is preempted by federal or state law. Prior to applying the waiver to any pending application, the Director shall, in consultation with the City Manager and City Attorney, make a written preemption determination which written determination shall identify the specific requirement or standard that is being waived and cite to the specific federal or state law provision that preempts the specific City requirement or standard set forth in this Section. The requirements set forth in this Section shall not apply to:

1. Amateur Radio Antennas. Amateur radio antennas that are owned and operated by a federally licensed amateur radio station operator or are used exclusively for receive-only antennas, provided that the requirement that the height be no more than the distance from the base of the antenna to the property line is met. The Director has the authority to approve modifications to the height restriction, if in the reasonable discretion of the Director, modifications are necessary to comply with federal law.
2. Miscellaneous Antennas. Antennas used for reception of television, multi-channel video programming and radio such as Over-the-Air Reception Devices (OTARD) antennas, television broadcast band antennas, and broadcast radio antennas, provided that the requirement that the height be no more than the distance from the base to the property line are met. The Director has the authority to approve modifications to the height restriction related to OTARD antennas and OTARD antenna structures, if in the reasonable discretion of the Director, modifications are necessary to comply with federal law.

c. Operational Standards.

1. Federal Requirements. All WCFs shall meet the current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the federal government with the authority to regulate WCFs. If such standards and

regulations are changed, then the owners of the WCF governed by this Section shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the WCF at the owner's expense.

2. **Radio Frequency Standards.** All WCFs shall comply with federal standards for radio frequency emissions. If concerns regarding compliance with radio frequency emissions standards for a WCF have been made to the City, the City may request that the owner or operator of the WCF provide information demonstrating compliance. If such information is not sufficient, in the reasonable discretion of the City, to demonstrate compliance, the City may request and the owner or operator of the WCF shall submit a project implementation report which provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject site, and which compares the results with established federal standards. If, upon review, the City finds that the facility does not meet federal standards, the City may require corrective action within a reasonable period of time, and if not corrected, may require removal of the WCF pursuant to Subsection C.1, above. Any reasonable costs incurred by the City, including reasonable consulting costs to verify compliance with these requirements, shall be paid by the applicant.
  3. **Signal Interference.** All WCFs shall be designed and sited so as not to cause interference with the normal operation of radio, television, telephone, and other communication services utilized by adjacent residential and non-residential properties; nor shall any such facilities interfere with any public safety communications. The applicant shall provide a written statement ("Signal Interference Letter") from a qualified radio frequency engineer, certifying that a technical evaluation of existing and proposed facilities indicates no potential interference problems, and shall allow the City to monitor interference levels with public safety communications during this process.
  4. **Legal Access.** In all applications for WCFs outside of the right-of-way, an applicant shall demonstrate that it owns or has lease rights to the site.
  5. **Operation and Maintenance.** To ensure the structural integrity of WCFs, the owner of a WCF shall ensure that it is maintained in compliance with standards contained in applicable local building and safety codes. If upon inspection, the City determines that a WCF fails to comply with such codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have 30 days from the date of notice to bring such WCF into compliance. Upon good cause shown by the owner, the City's Chief Building Official may extend such compliance period not to exceed 90 days from the date of said notice. If the owner fails to bring such WCF into compliance within said time period, the City may remove such WCF at the owner's expense. No hazardous materials shall be permitted in association with WCFs, except those necessary for the operations of the WCF and only in accordance with all applicable laws governing such materials.
  6. **Abandonment and Removal.** If a WCF has not been in use for a period of three months, the owner of the WCF shall notify the City of the non-use and shall indicate whether re-use is expected within the ensuing three months. Any WCF that is not operated for a continuous period of six months shall be considered abandoned. The City, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF shall remove the same within 30 days of receipt of written notice from the City. If such WCF is not removed within said 30 days, the City may remove it at the owner's expense and any approved permits for the WCF shall be deemed to have expired.
- d. **Design Standards.** The requirements set forth in this Section shall apply to the location and design of all WCFs governed by this Section as specified below; provided, however, that the City may waive any one or more of these requirements if it determines that the goals of this Section are better served thereby. WCFs shall be designed and located to minimize the impact on surrounding properties and residential neighborhoods and to maintain the character and appearance of the City, consistent with other provisions of this ULDC.
1. **Camouflage/Concealment.** All WCFs and any related accessory equipment shall, to the maximum extent possible, use concealment design techniques, and where not possible utilize



camouflage design techniques. Camouflage design techniques include, but are not limited to using materials, colors, textures, screening, undergrounding, landscaping, or other design options that will blend the WCF to the surrounding natural setting and built environment. Design, materials, and colors of WCFs shall be compatible with the surrounding environment. Design elements shall be compatible with structures and vegetation on the same parcel and adjacent parcels.

- a. Where WCFs are located in areas of high public visibility, they shall, where physically possible, be designed to be concealed, and where not possible to be concealed, to minimize the WCF profile through placement of equipment fully or partially underground, or by way of example and not limitation, behind landscape berms.
- b. A concealment design may include the use of alternative tower structures should the Director determine that such design meets the intent of this ULDC and the community is better served thereby.
- c. All WCFs, such as antennas, vaults, equipment rooms, equipment enclosures, and towers shall be constructed of non-reflective materials (visible exterior surfaces only).

e. Siting.

1. No portion of any WCF may extend beyond the property line.
2. WCFs shall be required to be designed and constructed to permit the facility to accommodate WCFs from at least two wireless service providers on the same WCF unless the City approves an alternative design. No WCF owner or operator shall unfairly exclude a competitor from using the same facility or site.
3. WCFs shall be sited in a location that does not reduce the parking for the other principal uses on the parcel below ULDC standards.
4. WCFs shall be in accordance with Sec. 4.3.8, *Site Visibility*.

f. Lighting. WCFs shall not be artificially lighted, unless required by the FAA or other applicable governmental authority, or the WCF is mounted on a light pole or other similar structure primarily used for lighting purposes. If lighting is required, the City may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting shall be shielded or directed to the greatest extent possible so as to minimize the amount of glare and light falling onto nearby properties, particularly residences.

g. Landscaping and Fencing Requirements.

1. WCFs shall be sited in a manner that does not reduce the landscaped areas for the other principal uses on the lot or parcel, below any applicable ULDC or Planned Development standards.
2. The site of the WCF shall be landscaped with a buffer of plant materials that effectively screen the view of the WCF from adjacent residential property. The standard buffer shall consist of the front, side, and rear landscaped setback on the perimeter of the site.
3. In locations where the visual impact of the WCF would be minimal the landscaping requirement may be reduced or waived in whole or in part by the Director.
4. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as WCFs sited on large, wooded lots, natural growth around the site perimeter may be sufficient to buffer.
5. No trees larger than four inches in diameter measured at four-and-a-half feet high on the tree may be removed, unless authorized by the Director. To obtain such authorization the applicant shall show that tree removal is necessary, the applicant's plan minimizes the number of trees to be removed and any trees removed are replaced at a ratio of two to one.

h. Specific *Design Requirements*. Additional design requirements shall be applicable to the types of WCFs as specified below.

1. *Base Stations*.

- a. Base stations shall be architecturally compatible with respect to attachments, and colored to match the building or structure to which they are attached;

- b. The maximum protrusion of such facilities from the building or structure face to which they are attached shall be two feet;
- c. Wall-mounted WCFs shall not extend above the roofline unless mounted to a penthouse; and
- d. Roof-mounted whip antennas shall extend no more than twelve feet above the parapet of any flat roof or ridge of a sloped roof or penthouse to which they are attached;
- e. Roof-mounted panel antennas shall extend no more than seven feet above the parapet of a flat roof or ridge of a sloped roof to which they are mounted; and
- f. Other roof-mounted related accessory equipment shall extend no more than seven feet above any parapet of a flat roof upon which they may be placed, and shall not be permitted on a sloped roof.

*2. Alternative Tower Structures (ATS) and Small Cell Facilities.*

- a. ATS shall be designed and constructed to look like a building, facility, or structure typically found in the area, in order that the WCF is concealed.
- b. Height or size of the proposed ATS or small cell facility shall be minimized as much as possible and shall be subject to the maximum height restrictions of the zoning district in which they are located, and subject to a maximum height limit of sixty feet;
- c. ATS shall be sited in a manner that is least obtrusive to residential structures and residential district boundaries;
- d. ATS should take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses;
- e. ATS and small cell facilities shall be compatible with the surrounding topography, tree coverage, and foliage;
- f. ATS and small cell facilities shall be designed utilizing design characteristics that have the effect of concealing where technically feasible and generally reducing or eliminating visual obtrusiveness; and
- g. Visual impacts of the proposed ingress and egress shall be in accordance with Sec. 4.3.8, *Site Visibility*.

*3. Alternative Tower Structures and Small Cell Facilities Located in the Right-of-Way.*

- a. No pole or structure shall be more than 10 feet higher (as measured from the ground to the top of the pole or structure) than any existing utility or traffic signal within 500 feet of the pole or structure;
- b. Any new pole for ATS or small cell facilities shall be separated from any other existing WCF facility by a distance of at least 600 feet, unless the new pole replaces an existing traffic signal, street light pole, or similar structure determined by the Director;
- c. With respect to pole-mounted components, small cell facilities shall be located on an existing utility pole serving another utility; or be located on a new utility pole where other utility distribution lines are aerial, if there are no reasonable alternatives;
- d. ATS must be concealed consistent with other existing natural or manmade features in the right-of-way near the location where the ATS will be located;
- e. When placed near a residential property, facilities must be placed in front of the common side yard property line between adjoining residential properties. In the case of a corner lot, the facility must be placed in front of the common side yard property line adjoining residential properties, or on the corner formed by two intersecting streets;
- f. Small Cell Facilities shall:
  - 1. Be designed such that antenna installations on traffic signals are placed in a manner so that the size, appearance, and function of the signal will not be considerably altered;
  - 2. Be designed such that all antennas, mast arms, equipment, and other facilities are sized to minimize visual clutter, and where possible, concealed within the structure;

3. Be consistent with the size and shape of the pole-mounted equipment installed by communications companies on utility poles near the ATS;
4. Require that any ground-mounted equipment be installed in an underground or partially underground equipment vault (projecting not more than 36 inches above grade), or co-located within a traffic cabinet of a design approved by the Director unless a use by special review is obtained subject to the requirements of Sec. 2.3.2, Use by Special Review;
5. Not alter vehicular circulation or parking within the right-of-way or impede vehicular, bicycle, or pedestrian access or visibility along the right-of-way; and
6. Shall comply with the federal Americans With Disabilities Act (ADA) and all applicable local, state, and federal law and regulations. Small cell facilities shall not be located or maintained in a manner that causes unreasonable interference.

#### 4. Towers.

- a. Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards, be painted a neutral color so as to reduce visual obtrusiveness as determined by the City;
- b. Tower structures should use existing landforms, vegetation, and structures to aid in concealing the facility from view or blending in with the surrounding built and natural environment;
- c. Monopole support structures shall taper from the base to the tip;
- d. All towers shall be enclosed by security fencing or wall at least six feet in height and shall also be equipped with an appropriate anti-climbing device. No security fencing or any portion thereof shall consist of barbed wire or chain link material; and
- e. Towers shall be subject to the maximum height restrictions of the zoning district in which they are located and subject to a maximum height limit of 60 feet.
- f. Towers should be sited in a manner that is least obtrusive to residential structures and residential district boundaries where feasible;
- g. Towers should take into consideration the uses on adjacent and nearby properties and the compatibility of the tower to these uses;
- h. Towers should be designed utilizing design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- i. Visual impacts of the proposed ingress and egress shall be in accordance with Sec. 4.3.8, Site Visibility;
- j. No new towers shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the City that no existing WCFs can accommodate the needs that the applicant proposes to address with its tower application. Evidence submitted to demonstrate that no existing WCFs can accommodate these needs may consist of the following:
  1. No existing WCFs are of sufficient height and are located within the geographic area required to meet the applicant's engineering requirements;
  2. Existing WCFs do not have sufficient structural strength to support applicant's proposed WCF;
  3. The applicant's proposed WCF would cause electromagnetic interference with the WCFs on the existing WCFs or the existing WCFs would cause interference with the applicant's proposed WCF; and
  4. The applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for collocation.
- k. A tower shall meet the greater of the following minimum setbacks from all property lines:
  1. The setback for a principal building within the applicable zoning;
  2. 25 percent of the facility height, including WCFs and transmission equipment; or

3. The tower height, including antennas, if the tower is in or adjacent to a residential district or residential zoned property.
  - l. Towers over 40 feet in height shall not be located within one-quarter mile from any existing tower that is over 40 feet in height, unless the applicant has shown to the satisfaction of the City that there are no reasonably suitable alternative sites in the required geographic area which can meet the applicant's needs.
  - m. No towers shall be permitted in the right-of-way.
5. *Related Accessory Equipment.*
- a. Related accessory equipment for all WCFs shall meet the following requirements:
    1. All buildings, shelters, cabinets, and other accessory components shall be grouped as closely as technically possible;
    2. The total footprint coverage area of the WCF's related accessory equipment shall not exceed 350 square feet;
    3. No related accessory equipment or accessory structure shall exceed 12 feet in height; and
    4. Related accessory equipment shall be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the related accessory equipment shall be camouflaged or concealed.
  - i. Review Procedures and Requirements. No new WCF shall be constructed and no collocation or modification to any WCF may occur except after a written request from an applicant, reviewed and approved by the City in accordance with this Section. All WCFs, except eligible facilities requests, shall be reviewed pursuant to the following procedures:
    1. *Submittal Requirements.* Each applicant for a WCF shall be required to submit a site improvement plan, as outlined in Sec. 7.4.6, *Site Improvement Plan*. The Director may waive any of the following submittal requirements, or submittal requirements of §2706, if deemed inapplicable to the WCF SIP application.
      - a. Completed land use application form;
      - b. Submittal fee;
      - c. Signal interference letter, as detailed in Subsection C.3, above;
      - d. Inventory of existing sites, as detailed in Subsection F.2, below; and
      - e. Any other information deemed necessary by the Director to determine compliance with this Section.
    2. Inventory of Existing Sites. Each applicant for a WCF shall provide to the Director a narrative and map description of the applicant's existing or then currently proposed WCFs within the City, and outside of the City within one mile of its boundaries. In addition, the applicant shall inform the City generally of the areas of the City in which it believes WCFs may need to be located within the next three years. The inventory list should identify the site name, site address, and a general description of the facility (e.g., rooftop antennas and ground mounted equipment). This provision is not intended to be a requirement that the applicant submit its business plan, proprietary information, or make commitments regarding locations of WCFs within the City. Rather, it is an attempt to provide a mechanism for the City and all applicants for WCFs to share general information, assist in the City's comprehensive planning process, and promote collocation by identifying areas in which WCFs might be appropriately constructed for multiple users. The Director may share such information with other applicants applying for administrative approvals or conditional permits under this Section or other organizations seeking to locate WCFs within the jurisdiction of the City, provided however, that the Director is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
    3. Applications for Base Stations, Alternative Tower Structures, and Alternative Tower Structures within Right-of-Way. In all zoning districts and Planned Developments, each application for a base station, alternative tower structure, or alternative tower structure within right-of-way shall

be reviewed and considered for approval by the Director for conformance to this Section. Except for WCFs in the right-of-way that meet all requirements of this Section or eligible facilities requests, the Director may refer the application to Planning Commission for approval if the Director finds the proposed WCF to have a significant visual impact (e.g., proximity to historic or designated view corridors, or on significant community features) or otherwise is substantially incompatible with the structure on which the WCF will be installed, or it does not meet the clear intent of this Section.

4. Applications for Towers. In all zoning districts and Planned Developments, towers may be permitted only as a Use by Special Review approved by City Council, as outlined in Sec. 7.4.8, Use by Special Review Permit. Such towers shall be reviewed for conformance to this Section using the use by special review procedures set forth in Sec. 2.3.2, Use by Special Review of this ULDC in conjunction with the applicable sections of this Section. All applications for towers shall demonstrate that other alternative design options such as base stations or alternative tower structures are not viable options.

5. Administrative Review *Procedures for Eligible Facilities Requests.*

- a. Application. In all zoning districts and Planned Developments, eligible facilities requests for collocation on or modification of an existing tower or base station shall be considered a use by right subject to administrative review and determination by the Director. The City shall prepare, and from time to time revise and make publicly available, an application form which shall be limited to the information necessary for the City to consider whether an application for collocation or modification is an eligible facilities request. Such information may include, without limitation, whether the project would result in a substantial change or violates a generally applicable building, structural, electrical, or safety code or other law codifying objective standards reasonably related to public health and safety. The application may not require the applicant to demonstrate a need or business case for the proposed modification or collocation.
- b. Type of Review. Upon receipt of an application for an eligible facilities request pursuant to this Section, the Director shall review such application to determine whether the application so qualifies.
- c. Timeframe for Review. Subject to the tolling provisions of Subsection F.5.d, below, within 60 days of the date on which an applicant submits an application seeking approval under this Section, the Director shall approve the application unless it determines that the application is not covered by this Section.
  1. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application;
  2. The timeframe for review begins running again when the applicant makes a supplemental written submission in response to the City's notice of incompleteness; and
  3. Following a supplemental submission, the City will notify the applicant within 10 days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in Subsection, E.5.d.i, above. In the case of a second or subsequent notice of incompleteness, the City may not specify missing documents or information that were not delineated in the original notice of incompleteness.
- d. Tolling of the Timeframe for Review. The 60-day review period begins to run when the application is filed, and may be tolled only by mutual agreement of the City and the applicant, or in cases where the Director determines that the application is incomplete:
  1. Failure to Act. In the event the City fails to act on a request seeking approval for an eligible facilities request under this Section within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant of approval becomes effective when the applicant notifies the City in writing after the review period

has expired (accounting for any tolling) that the application has been deemed granted.

2. Interaction with Telecommunications Act Section 332(c)(7). If the City determines that the applicant's request is not an eligible facilities request as delineated in this Section, the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the FCC's Shot Clock order, will begin to run from the issuance of the City's decision that the application is not a covered request. To the extent such information is necessary, the City may request additional information from the applicant to evaluate the application under Section 332(c)(7) review. The City shall identify the need for any such additional information together with the notice that the request is not an eligible facilities request, and if such additional information is requested, the reasonable time frame under Section 332(c)(7) will begin to run beginning on the date that such additional information is received by the City.
- e. Abandonment and Removal. Prior to approval, affidavits shall be required from the owner of the property and from the applicant acknowledging that each is responsible for the removal of a WCF, including related accessory equipment, that is abandoned or is unused for a period of six months.
- f. Decision. Any decision to approve, approve with conditions or deny an application for a WCF shall be in writing, supported by substantial evidence in a written record, and shall be provided to the applicant within 10 days of the decision. If the approval is for a concealed WCF, the written decision shall specifically identify that the WCF is a concealed facility.
- g. Compliance with Applicable Law. Notwithstanding the approval of an application for collocation as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building and safety requirements as set forth in this ULDC, other provisions of the Municipal Code, and any other applicable regulations. In addition, all WCF applications shall comply with the following:
  1. Comply with any permit or license issued by a local, state, or federal agency with jurisdiction of the WCF;
  2. Comply with easements, covenants, conditions, and/or restrictions on or applicable to the underlying real property;
  3. Be maintained in good working condition and to the standards established at the time of application approval or as otherwise required by applicable law; and
  4. Remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than 10 days from the time of notification by the City or after discovery by the owner or operator of the site.
- h. *Compliance Report*. Upon request by the City, the applicant shall provide a compliance report within 45 days after installation of a WCF, demonstrating that as installed and in operation, the WCF complies with all conditions of approval, applicable City requirements and standard regulations.
  1. Visual impacts are minimized and view corridors are protected to the greatest extent feasible.
  2. Unless a Tower site, or otherwise waived pursuant to this Section, the WCF utilizes concealment design techniques to avoid adverse impacts on the surrounding area, by ensuring that the facility looks like something other than a tower or base station;
  3. The WCF meets the applicable design standards for the type of WCF in accordance with Subsection D, above; and
  4. The WCF is and will be operated at all times in accordance with Subsection C, above.

#### Sec. 2.3.2 Accessory Uses and Structures

- A. **Purpose.** The purpose of this Section is to authorize the approval of certain accessory uses and structures that are incidental to, and customarily associated with, a principal use, which requires standards to manage impacts to surrounding properties.

## **B. Applicability.**

1. Accessory uses are permitted in all zoning districts in connection with a principal use that is designated as either a permitted, limited, or special use in the zoning district that it is located. (See use tables in Division 2.2, *Establishment of Zoning Districts*).
2. The accessory use and structure requirements of this Section apply to all Planned Developments (PDs).

## **C. General Requirements.**

1. Accessory uses and structures shall be clearly secondary and incidental to the primary use of the property.
2. The principal use must be established prior to the accessory use or structure.
3. Accessory uses not listed in the applicable land use table require approval under the procedures in Sec. 2.3.8, *Unlisted Uses*.
4. Accessory structures (in excess of 200 square feet) shall be designed to be compatible with the primary building in terms of use, color, and building materials.
5. Accessory structures, except for a private detached garages, shall not have a footprint greater than 10 percent of the principal building's footprint.
6. An accessory structure shall not exceed 15 feet in height.
7. Accessory structures shall conform to the setback requirements of the applicable zoning district.

## **D. Specific Accessory Uses.**

### **1. Alternative Energy System**

#### **j. Solar Collectors**

1. Ground- or structure-mounted solar collectors shall follow the applicable setback for the district in which it is located.
2. Solar panels that cover carports and walkways shall be set back from the front property line as required for principal buildings if located in a specific zoning district.
3. If solar collectors are damaged, such that the damage is obvious when viewed from a public right-of-way, then the collectors shall be removed or replaced within 30 days of the event that caused the damage.

#### **k. Wind Energy Conversion System (WECS)**

1. There shall be no more than one WECS allowed on a residential lot.
2. A WECS shall be located behind the principal use and set back from the property lines of abutting properties one and one half feet for each foot in height.
3. The vertical clearance of the blades of tower-mounted horizontal axis turbines shall be not less than 15 feet when the blades are at their lowest point.

### **2. Car Wash. A car wash may be permitted as an accessory use if:**

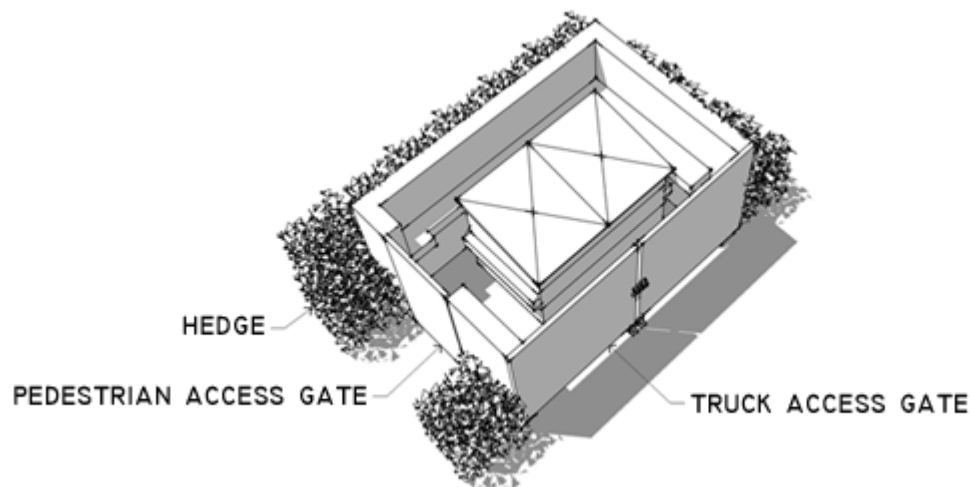
- a. Accessory equipment, such as vacuum bays, shall not be visible from a public right-of-way.
- b. The use is automatic and fully enclosed (self-service is prohibited);
- c. In addition to the car wash and vacuum bays, a minimum of one additional parking space is required for each bay, which does not interfere with vehicular circulation or entrance or exit drives.
- d. Bay access is oriented perpendicular to street rights-of-way or, alternatively, a six-foot screen wall or a Type B bufferyard is provided to prevent headlight glare into streets or residential property.
- e. All mechanical equipment shall be enclosed within a building.
- f. A water recycling system is applied to all full-service or conveyor-based automobile wash facilities, which is equipped with a maintained and correctly functioning water recycling system that will recycle not less than 50 percent of the water being used by the facility, and for existing automobile wash facilities, such system is required as a condition of any permit to:
  1. Replace or expand the floor area of the vehicle wash facility building by more than 25 percent of the area of the vehicle wash facility building as it existed on the effective date of this ULDC; or

2. Enlarge the water tap, meter, or service line.
3. *Drive-Thru Facility.*
  - a. Accessory Use. Drive-thru facilities shall be attached to the principal structure. Standalone drive-thrus shall not be allowed as an accessory use of a site.
  - b. Access. The facility shall take access from a collector or local street.
  - c. Design.
    1. The drive-in, drive-thru facility shall not be located within the front yard.
    2. Ordering stations facing abutting residentially zoned or used property shall be buffered with a six-foot high masonry wall and landscaping.
4. *Electric Vehicle (EV) Charging Station.* EV Charging Stations constructed as a part of a commercial use shall:
  - a. Be signed in a clear and conspicuous manner indicating exclusive availability to electric vehicles.
  - b. Comply with all of the provisions of all applicable health and safety standards and requirements of federal, state, and local law and the electrical utility provider.
5. *Garage, Private.*
  - a. A detached garage shall be permitted only when a principal use has been established on a lot and shall not be more than 1,000 sq. ft.
  - b. A hard-surfaced driveway shall be required to access a private garage.
6. *Home Occupation.* Home Occupations may be permitted subject to the following regulations:
  - a. The Home Occupation shall not be more dangerous to life, personal safety, or property than any other activity ordinarily carried on with respect to a dwelling used solely for residential purposes;
  - b. Mail-order, telephone, and internet sales, as well as distribution of sold merchandise, is permitted;
  - c. The Home Occupation shall not create or cause any perceptible noise, odor, smoke, electrical interference, or vibrations that constitute a public or private nuisance to neighboring properties;
  - d. Not more than two vehicles shall be parked at the location at any one time as the result of a Home Occupation;
  - e. There shall be no parking or storage of vehicle(s) with a weight greater than 7,000 pounds empty weight and/or commercial trucks to conduct the home occupation;
  - f. There shall be no outdoor display or storage of goods, materials, merchandise, equipment, or signage related to the home occupation that is visible from the exterior of the principal dwelling;
  - g. No alteration shall be made to the principal dwelling that changes its residential character nor shall there be any outward appearance of a Home Occupation;
  - h. Other than persons residing in the dwelling unit, only one outside employee may be engaged in the Home Occupation;
  - i. The Home Occupation shall be operated only in a principal building;
  - j. All of the Home Occupations combined shall not exceed 20 percent of the gross floor area of the principal building;
  - k. No more than two Home Occupations may operate indoors; and
  - l. A Home Occupation shall not operate outdoors.
7. *Nursery or Garden Center.* A nursery or garden center may be permitted as a accessory use to a sales-oriented use if:
  - a. It is located immediately adjacent to and abutting the principal building.
  - b. It is enclosed and screened from public view on all sides with a solid wall constructed of the same materials as the principal building that is no less than 30 percent opaque and is no less than two feet higher than the stacked materials stored within the enclosure.
  - c. It is constructed such that it may be secured after business hours.
  - d. There is a merchandise pick-up area that does not interfere with required parking, vehicular access, circulation, or maneuvering areas.



- e. An eight foot perimeter of the garden center, its entrances, exits, and customer cash out areas, is constructed of hard surfaces. The remaining area of the nursery or garden center may remain as pervious area, such as grass or gravel that is maintained to allow for handicap accessible (ADA) access.
- 2. **Storage Shed.** Storage sheds shall be 200 square feet in gross floor area or less. Storage Sheds shall be setback at least three feet from the rear and side yard property lines and shall not be located in the front yard.
- 3. **Trash Enclosures.** Refuse and recycling containers and enclosures shall be provided for all multiple-family, nonresidential, and mixed-use development for the collection of solid wastes. All containers are subject to the following standards:
  - a. The solid waste container enclosures shall be located no more than 200 feet from the individual uses they are intended to serve;
  - b. Access to the solid waste enclosure shall be configured to meet the requirements of the solid waste hauler; and
  - c. The solid waste enclosure shall have an opaque fence or wall constructed of wood or masonry and designed to match or complement the architecture of the principal building.
- d. As shown in Figure 2.3.6, *Trash Enclosure*, the enclosure shall have:
  - 1. Solid walls no less than six feet in height;
  - 2. Solid wood or metal service gates that remain closed except when the container is being serviced;
  - 3. Solid covers or lids on each solid waste container that can be secured to prevent easy access;
  - 4. A separate solid wood or metal pedestrian access gate that screens the container(s) from view; and
  - 5. An adequate size to accommodate one or more solid waste containers of a sufficient size to serve the use, based on the frequency of solid waste collection.
- e. The setbacks shall be as follows:
  - 1. Front and corner yards: No less than the required building setback for the principal structure.
  - 2. Interior Side Yard: Five feet.
  - 3. Rear Yard: Five feet.

**Figure 2.3.6**  
**Trash Enclosure**



### Sec. 2.3.3 Temporary Uses and Structures

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#### **A. General Requirements for Temporary Uses.** Temporary uses shall:

1. Have permission to use the site on which the use is to be conducted, as authorized by the property owner in writing;
2. Obtain a temporary use permit prior to operation and comply with all additional standards therein (See Sec. 7.3.9, *Temporary Use Permit*);
3. Not be conducted or located within the required minimum setbacks set for each zoning district within Division 2.2, *Establishment of Zoning Districts*; and
4. Have adequate sight distances for safe vehicular ingress and egress;
5. Not obstruct vehicular circulation nor access by emergency service providers;
6. Provide safe circulation by:
  - a. Maintaining access to permanent uses operating simultaneously to the temporary use;
  - b. Providing directional signage; and
  - c. Minimizing points of conflict between vehicles and pedestrians; and
7. Have sufficient on-site parking for the principal and temporary use.
8. Provide adequate public restroom facilities, waste containers, water, electrical services, and other utilities on-site as determined to be necessary for the use by the City.
- 9.

#### **B. Unlisted Temporary Uses.** Temporary uses not listed in the applicable land use table require approval under the procedure in Sec. 2.3.8, *Unlisted Uses*.

#### **C. General Requirements for Temporary Structures.**

1. All temporary structures shall be in compliance with the City's Building Codes.
2. Temporary structures shall comply with the district height limits and setbacks.
3. A temporary structure to be used for an office or storage is permitted as part of a contractor's or owner's equipment during the construction of a building or structure, provided it is located on the lot or development parcel on which the construction is occurring, and provided further that all applicable Municipal Code requirements are met.
4. A temporary structure shall be removed from the lot or development parcel prior to a Certificate of Occupancy or if construction ceases on the lot or development parcel for 30 days or longer.

#### **D. Specific Temporary Use Standards.**

1. *Construction Dumpsters.* Dumpsters shall be consistent with Section Sec. 11-1-30, *Dumpsters and Storage Pods Prohibited on Public Rights-of-way*, of the City's Municipal Code and shall require a permit.
2. *Construction Office.* A construction office to be used for managing a construction job shall be allowed in all districts provided that:
  - a. A building permit is issued for the temporary use prior to placement.
  - b. The structure is used only during permissible construction hours by construction employees.
  - c. The structure shall not be used for living quarters.
  - d. The structure is located within the area of a recorded Final Plat.
  - e. A permit for a temporary electrical meter has been issued by the Building Division.
  - f. The temporary structure shall be removed within 30 days of the issuance of a Certificate of Occupancy for the last building in the last phase of development.
3. *Construction Yard.* A construction yard used as a temporary facility for the storage of construction materials shall be allowed in all districts provided that:
  - a. The construction yard is located on an active construction site or within one-half mile of the construction to which the construction yard serves;
  - b. Hours of use shall be consistent with Section 7-3-140, *Permissible Construction Times*, of the City's Municipal Code establishing construction hours;

- c. The facility shall be used only for a construction site or an infrastructure project that is wholly or partially located within the City;
  - d. The yard is established by approval and coincides with the use of the facility for a specific construction project; and
  - e. Shall be vacated prior to the issuance of a Certificate of Occupancy for the last building constructed on the site.
4. *Estate Sales Permit*. Estate sales permits shall comply with the standards and procedures per Chapter 6, Article 6, *Estate Sales*, of the City's Municipal Code.
5. *Farmer's Market*.
- a. Hours of operation shall be limited to daylight hours.
  - b. Markets shall be located on hardscape areas or improved surfaces, unless the Director determines that another type of surface will not be subject to long-term damages.
  - c. Any event that serves alcoholic beverages shall obtain and maintain required state and local liquor licenses.
  - d. If permanent, the use is operated in accordance with the standards set out in Sec. 2.3.6, *Accessory Uses and Structures*.
6. *Food Truck*.
- a. The license granted to operate the business per Chapter 6, *Business Licenses and Regulations*, of the City's Municipal Code shall be firmly attached and visible on the food truck at all times.
  - b. Any and all noise made by the use shall comply with Sec. 7-9-50, *Noise in Excess of Permissible Levels*, of the City's Municipal Code.
  - c. The use shall not be left unattended or stored at any time when vending is not taking place.
7. *Residential Sales Office*. A temporary residential sales office shall be allowed provided that:
- a. Sales are limited to those units within the subdivision or residential development in which the office is located;
  - b. Adequate access, off-street parking, and sanitary facilities shall be provided; and
  - c. The temporary office structure shall be removed after two years or when the last lot is sold, whichever occurs first.
8. *Special Event*. Special events shall comply with the standards and procedures per Division 6, *Special Events Permits*, of the City's Municipal Code.

#### Sec. 2.3.8 Unlisted Uses

- A. **Authorization of Unlisted Uses**. When a proposed use is not listed in any use table, the use is not permitted in the City, unless the Director determines that the use is included in the definition of a listed use or is so similar to a listed use that it shall be treated as the same use.
- B. **Referral to Planning Commission**. At the Director's discretion, the Director may refer any decision under this Section to the Planning Commission to make a determination in accordance with this Section.
- C. **Decision Criteria**. In making such determinations, the Director and/or Planning Commission shall consider the following to determine if the proposed use shall be included within a listed use:
  - 1. Actual or projected characteristics of the activity in relation to those of the listed land use;
  - 2. Nature and impacts of operation;
  - 3. Character of associated buildings and structures;
  - 4. Amount of site area or floor space and equipment devoted to the use;
  - 5. Vehicle parking demand;
  - 6. Average daily and peak hour trip generation (people, personal vehicles, and delivery vehicles);
  - 7. Types of vehicles used and their parking requirements;
  - 8. Building impervious surface coverage;
  - 9. Regulated air or water emissions;
  - 10. Noise, lighting, dust, vibration, electronic interference, and odors;

11. Solid waste generation;
12. Number of employees on a typical shift;
13. Use and storage of hazardous materials; and
14. Hours of operation.