

**CHAPTER VII:**

**SUPPLEMENTARY REGULATIONS**

# SUPPLEMENTARY REGULATIONS

## VII

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### VII.I SUPPLEMENTARY USE STANDARDS

#### A. ADULT-ORIENTED BUSINESS

1. Standards for Location of Adult-Oriented Business.
  - a. Such business is to be zoned as Conditional Use within the C-2, C-3, M-1 and M-2 zoning districts.
  - b. Such business may not be located within:
    - i. Five hundred feet (500') of any property zoned for residential use;
    - ii. Five hundred feet (500') of any religious institution, public or private school containing any grade K-12;
    - iii. Five hundred feet (500') of any public park;
    - iv. Five hundred feet (500') of any child care/daycare facility; or
    - v. Five hundred feet (500') of any other adult-oriented business as defined above.
  - c. The distance shall be measured by following a straight line without regard to intervening building, structures, or other obstacles, from the nearest point of the property upon which the proposed conditional use is to be located to the nearest point of the property or land use boundary line from which the proposed land use is to separate. The applicant shall provide with his petition for a Conditional Use a certified copy of measurement by a land surveyor registered by the State of Indiana showing the proposed land use is properly separated.
  - d. All business, except for off-street parking and off-street loading, shall be conducted within completely enclosed buildings.
  - e. Such adult-oriented business must comply with all other zoning requirements specific to the Conditional Use in the authorized zoning classification, i.e. signage, hours of operation, set-backs, etc.
2. Parking requirements for an adult-oriented business are as follows:

- a. All parking must be sufficiently lighted to reveal the interior of vehicles and must be located to the front and/or sides of the establishment.
  - b. Required Parking Spaces
    - i. Adult Arcade. One (1) parking space for each two (2) customer seats or arcade devices (whichever is greater) plus one (1) parking space for each employee of the largest working shift.
    - ii. Adult Bookstore/Novelty Store/Video Store. One (1) parking space for each two hundred feet (200') of floor space.
    - iii. Adult Cabaret or Adult Juice Bar. One (1) parking space for each two (2) customer seats plus one (1) parking space for each employee of the largest working shift.
    - iv. Adult Motion Picture Theater. One (1) parking space for each four (4) seats plus one (1) parking space for each employee of the largest working shift.
    - v. Adult Theater. One (1) parking space for each four (4) seats plus one (1) parking space for each employee of the largest working shift.
    - vi. Nude Model Studio. One and one-half (1 ½) parking spaces for each two (2) customers or students plus one (1) parking space for each employee of the largest working shift.
    - vii. Peep Show Facility. One (1) parking space for every two (2) customers plus one (1) parking space for each employee of the largest working shift.
    - viii. Sexual Encounter Center. One (1) parking space for every two (2) customers plus one (1) parking space for each employee of the largest working shift.
3. Permit Required
- a. Permit Required. Prior to doing business, all such adult oriented businesses shall obtain a permit from the City of Terre Haute Board of Public Works and Safety.
  - b. Permit Fee. There is no application or annual fees required for an adult oriented business permit.

- c. Permit Application. All applications for such permit shall be on forms designated by the Board of Public Works and Safety and shall include the following information:
  - i. The full name and address of business;
  - ii. The full name, business address and home address of business owner and business manager;
  - iii. A telephone number at which the City of Terre Haute can reach the manager and/or owner during business hours of operation.
  - iv. Statement of the manager and or owner that the business is in full compliance with all federal, state and local laws, including zoning regulations.
  - v. Authorization for the City, its agents and employees to seek information and to conduct an investigation into the truth of the statements set forth in the application.
- d. Change of Information. Such business shall promptly notify the Board of Public Works and Safety in writing of any change of information contained in the application form.
- e. Permit Non-transferable. Such permit shall be for the specific business location and is not transferable to another business or business location.
- f. Violation To Operate without a Permit. It shall be a violation of this article to operate, or permit to operate an adult oriented business unless a permit has been obtained therefore from the Board of Public Works and Safety.
- g. Denial of Permit. A permit to operate an adult oriented business may be denied based on any of the following:
  - i. Applicant omitted required information on application;
  - ii. Applicant made any materially false statement on his application for permit;
  - iii. The premises sought to be permitted fails to comply in any manner with any applicable laws or ordinances, including zoning laws or ordinances;

- iv. A special use has not been granted by the Board of Zoning Appeals;
  - v. Applicant has been previously denied a permit for violation of federal, state or local laws; or
  - vi. A permit has been previously suspended or revoked from the business owner and or manager for violations of federal, state or local laws;
- h. Denial, Suspension, or Revocation of Permit
- i. The Board of Public Works and Safety may deny, suspend, or revoke any permit issued under the provisions of this Article upon complaint being made by a federal, state, or local law enforcement officer or an authorized representative of the City that the business is being operated in violation of State or Federal law or of the provisions of this Article.
  - ii. Upon notification by the Board of Public Works and Safety of a denial, suspension, or revocation of a permit, the applicant or permittee may, within ten (10) days, request a hearing by written notice to the Board of Public Works and Safety. During those ten (10) days, a currently permitted business may remain open. If no hearing is requested, the adult oriented business permit shall stand denied or revoked.
  - iii. When a hearing is set by the Board of Public Works and Safety the applicant or permittee shall receive, with not less than twenty (20) days written notice, a notice of the allegation of non-compliance, as well as the time and place where the hearing will be held. A current permitted adult oriented business may remain open until notified of the hearing results or thirty (30) days whichever is less.
  - iv. At a hearing conducted pursuant to this Section, the applicant or permittee shall have the right to be represented by counsel, to present witnesses, to testify and cross examine any other witness and to subpoena witnesses. All proceedings shall be conducted under oath.
  - v. The President of the Board of Public Works shall preside at the hearing and the Board shall make the final decision.
  - vi. If any decision adverse to the applicant or permittee is made by the Board of Public Works and Safety after a hearing as

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provided above, the Board shall provide to the applicant or permittee a written reason for such decision, as well as a notice that the applicant or permittee has the right to pursue any legal remedies available under Indiana law.

### 4. Miscellaneous Regulations

- a. Entry to the establishment must face the primary street which established the business' address.
- b. All signage must be in accord with Chapter VIII Sign Regulations and shall contain only the name of the establishment without reference to the sexual nature of the business and approved by the Director or Zoning Administrator.
- c. No sound devices may be utilized which do not meet the specifications of this Ordinance.
- d. No fencing or visual screening shall be installed to prevent full view of the parking lot from the primary street of the business.
- e. The business must be in full compliance with all other provisions of this Ordinance.

### B. ANIMALS

1. The following chart identifies limitations on the number and type of animals permitted in each zoning district.



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Table VII-1: Animal Provisions

DISTRICT		ANIMALS				
	Cats, Dogs, Potbellied Pigs	Horses, Cows, Llamas, Mules, Buffalo, Ostrich, Emus, Goats, Sheep, Pigs, Miniature Horses	Chickens, Ducks, Turkeys, Racing or Domestic Pigeons, Quail, Pheasant and other typically domesticated fowl	Rabbits, Chinchillas	Non-domestic exotic or native animals, birds, reptiles, except any venomous reptiles, or constricting snakes greater than six feet (6') in length	Reserved For Future Use
A-1	No Limit	No Limit	No Limit	No Limit	No Limit	
R-E R-S	4 dogs, 6 cats, or a combination of 5 per dwelling. No limit on kittens and puppies up to 4 months old	1 per acre w/ a min. of 5 acres	4 per lot on 2 acres; then 3 per additional acre	4 per lot on 2 acres; then 3 per additional acre	4 per lot. Must be kept indoors	
R-1 R-2 R-3 R-T	4 dogs, 6 cats, or a combination of 5 per dwelling. No limit on kittens and puppies up to 4 months old	Not Allowed	Not Allowed	4 per lot	4 per lot. Must be kept indoors	
C-1 C-2 C-3	4 dogs, 6 cats, or a combination of 5 per dwelling. No limit on kittens and puppies up to 4 months old	Not Allowed	Not Allowed	Not Allowed	4 per lot. Must be kept indoors	
M-1	No Limit	No Limit	No Limit	No Limit	No Limit	

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DISTRICT		ANIMALS				
M-2						

2. Structures containing livestock or livestock waste shall meet the following minimum setbacks:

- a. Front – One hundred (100) feet
- b. Side – Fifty (50) feet
- c. Rear – Seventy five (75) feet

### C. CHILD CARE CENTERS AND CHILD CARE HOMES

- 1. A proposed Child Care Center or Child Care Home shall be reviewed by the Director or Zoning Administrator for compliance with the requirements of this Ordinance.
- 2. A Child Care Center shall be subject to the following requirements:
  - a. Proof of adherence to all state licensing requirements shall be provided.
- 3. A Child Care Home, with the exception of those regulated as a Home Occupation, shall be subject to the following requirements:
  - a. Proof of adherence to all state licensing requirements shall be provided.
  - b. A Child Care Home shall provide a drop-off area measuring at least five hundred and forty (540) square feet which is not part of the public right-of-way.
  - c. A Child Care Home is limited to one (1) sign measuring no more than two (2) square feet in sign display area.
  - d. A Child Care Home must have a correct E-911 address verified by the Area Planning Department.
  - e. A Child Care Home must conduct activities without causing a nuisance in the neighborhood, i.e. from noise, lights, hours of operation, trash, etc.
- 4. Provision of child care for five (5) or fewer children in a Child Care Home shall be considered a Home Occupation.

### D. COMMERCIAL MOBILE RADIO SYSTEMS (CMRS)

1. All proposed CMRS facilities shall be reviewed pursuant to the following procedures:
  - a. Building- or structure-mounted CMRS facilities shall be reviewed by the Director or Zoning Administrator for compliance with the requirements of this Ordinance.
  - b. Roof-mounted and freestanding CMRS facilities must receive approval as a Conditional Use.
2. Multiple providers. No more than one (1) roof-mounted or freestanding CMRS facility may be constructed or maintained upon a property in single ownership; provided, however, that additional CMRS facilities may be approved at the same location as a Conditional Use, provided all other requirements of this Section are met.
3. Building- or structure-mounted CMRS facilities shall be subject to the following requirements:
  - a. Such facilities shall be architecturally compatible with 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 (2').
  - c. Building or structure mounted whip antennas shall extend no more than ten feet (10') above the highest point of the building or structure to which they are attached.
4. Roof-mounted CMRS facilities shall be subject to the following requirements:
  - a. Roof-mounted CMRS facilities shall be screened or camouflaged as appropriate from view from adjacent property lines
  - b. Such facilities shall be architecturally compatible with and colored to match the building or structure to which they are attached.
  - c. Roof-mounted CMRS whip antennas shall extend no more than ten feet (10') above the parapet of any flat roof or ridge of a sloped roof to which they are attached.
  - d. Roof-mounted CMRS panel antennas shall extend no more than seven feet (7') above the parapet of a flat roof or ridge of a sloped roof to which they are mounted.

- e. Roof-mounted CMRS accessory structures shall extend no more than seven feet (7') above any parapet of a flat roof upon which they may be placed, and shall not be permitted on a sloped roof.
5. Freestanding CMRS facilities shall be visually screened from adjacent residential development and public rights-of-way and are subject to the following requirements:
  - a. All accessory structures and equipment cabinets shall be totally screened from view from adjacent property lines.
  - b. Screening, landscaping and/or exterior building finishes and colors shall be compatible with the existing character of the site and adjacent properties and shall be determined as part of the conditional use review process.
6. No CMRS facility shall exceed the height limit applicable to the underlying zone district in which such facility is located.
7. The construction and use of a CMRS facility shall not cause interference to other adjacent CMRS facilities.
8. CMRS facilities which are abandoned by disconnection of power service, equipment removal or loss of lease for greater than six (6) months shall be removed by the CMRS facility owner.
9. Standards for approval of a freestanding CMRS facility:
  - a. Existing or approved towers cannot accommodate the telecommunications equipment planned for the proposed tower.
  - b. The tower shall not constitute a hazard to aircraft.
  - c. The tower shall be placed on the property to contain on site all ice-fall or debris from tower failure.
  - d. The proposed tower shall provide for shared capacity, if technically practicable.
  - e. The tower shall have the least practicable adverse visual impact on the environment.
  - f. The proposed tower shall not emit radiation that will adversely affect human health.

- g. The proposed tower shall be the minimum height needed to accommodate the antenna.
- h. The proposed tower shall comply with all applicable federal and state regulations.
- i. The design of the proposed tower shall ensure structural integrity. The proposed tower shall have adequate measures to discourage unauthorized climbing and to ensure the security thereof.
- j. All reasonably possible sites for the tower have been considered, and the proposed site is the most appropriate, available site from a land use perspective.

### E. HOME OCCUPATIONS AND BUSINESSES

- 1. Home occupations are permitted within a legally established dwelling unit, provided, however that the home occupation shall conform to all of the following:
  - a. A home occupation shall be conducted entirely within the dwelling or accessory structure located on the same lot in which the operator actually makes his/her legal and primary place of residence;
  - b. A home occupation shall not occupy more than a cumulative total of two hundred and fifty square feet (250') of the finished floor area of any dwelling unit or accessory structure in which the home occupation is located;
  - c. A home occupation shall not employ anyone on-site other than the operator or other legal residents of the dwelling unit;
  - d. A home occupation shall be clearly incidental and subordinate to the residential use of the dwelling;
  - e. A home occupation shall not alter the interior or exterior residential character of the dwelling unit;
  - f. A home occupation shall not include any commodity that is sold on the premises. However, the taking of mail orders is permitted.
  - g. A home occupation shall not include any mechanical equipment except such as is permissible for purely domestic or household purposes.
  - h. A home occupation shall not include any outdoor storage of goods, products, equipment, or other materials associated with the business activity;

- i. A home occupation shall not generate vehicular traffic in excess of that typically generated by residential dwellings. No addition of parking spaces to accommodate the home occupation or parking of commercial vehicles shall be permitted on the site;
  - j. A home occupation shall not generate noise, vibration, glare, fumes, odors or electrical interference beyond what normally occurs in any residential zone district; and
  - k. On-premises advertising of a home occupation shall be limited to one sign, not exceeding one square foot (1') in total area. No display shall indicate from the exterior that the building is being utilized wholly or in part for any purpose other than that of a dwelling.
2. Notwithstanding any limitation above, a child care home used as the primary residence of the person who operates the child care home for less than six (6) children (not including children for whom the provider is a parent, stepparent, guardian, custodian, or other relative) shall be specifically allowed as a home occupation, subject to the requirements and restrictions imposed upon child care homes by rules adopted by the Division of Family and Children or the Fire Prevention and Building Safety Commission.
3. The following uses shall be specifically excluded as home occupations: motor vehicle repair or service, appliance repair, machine shop, welding shop, landscape or lawn service operation, furniture refinishing or upholstery, sign making, and special trade contractors who are engaged in metal working or cabinetmaking.
4. Home businesses shall comply with the Home Occupation provisions in this Section, with the following exceptions:
  - a. A home business shall be a Conditional Use in all zoning districts where a home occupation is permitted.
  - b. A home business may employ one (1) or more employees on-site, subject to the limit set by the Board and other conditions that may be imposed as a part of the Conditional Use approval.

### F. JUNK YARDS

1. All junk yards shall be subject to the following conditions:
  - a. A junk yard shall be located a minimum of six hundred sixty feet (660') from any residential zoning district.
  - b. A junk yard shall be screened with an eight feet (8') high opaque, solid fence or earth berm so as to provide visual and aural separation between such use and adjacent areas.

### G. INDUSTRIAL PERFORMANCE

The performance standards set forth below shall be applicable to any new, enlarged, extended, relocated, reconstructed or structurally altered industrial use in any zoning district.

#### 1. Fire and Explosive Hazards

Solid substances, ranging from free or active burning to intense burning, may be stored, used or manufactured only within completely enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system.

- a. The storage, use or manufacture of flammable liquids or materials which produce flammable vapors or gases is permitted in accordance with the rules and regulations of the State Fire Marshall. A certificate of compliance, issued by the State Fire Marshall's office, stating that plans and specifications for an individual use comply with rules and regulations of the State Fire Marshall must accompany the application for an Improvement Location Permit.
- b. No activity involving the storage, use or manufacture of materials that decompose by detonation may be carried on except in accordance with rules issued by the State Fire Marshall and the State Building Commissioner.

#### 2. Glare and Heat

- a. In industrial districts (M-1 or M-2), any operation or activity-producing glare must be conducted so that direct or indirect light from the source must not cause illumination in excess of 0.5 foot-candles when measured in any residential district. For the purposes of this Section, glare is

illumination caused by incandescent, fluorescent or arc lighting, or from high temperature processes such as welding or metallurgical refining.

- b. The temperature of air or materials at the industrial boundary line, affected by furnace or processing equipment, shall not be raised more than five degrees (5°) Fahrenheit.

3. Noise

- a. Noise must be measured with a sound level meter meeting the latest standards of the American National Standards Institute (ANSI). The instrument must be set to the A-weighted response scale and the meter to slow response. Measurements must be conducted in accordance with the latest ANSI method for the physical measurement of sound.
- b. Table VII-2, Noise Limits specifies noise limits that apply on or beyond adjacent lot lines or district boundaries outside the user's property. Noises may not exceed the maximum sound levels specified in Table VII-2, except as designated in Subsection VII.I.F.3.c and Subsection VII.I.F.3.d, below. Where more than one specified sound level applies the most restrictive will govern. Measurements must be taken at points of maximum noise intensity.
- c. The levels specified in Table VII-2 may be exceeded by 10 dBA for a single period, no longer than fifteen (15) minutes, in any one day.
- d. For impact noise levels, the values in Table VII-2 increased by 20 dBA will apply. Impact noises will be considered to be those noises having peak values more than 6 dBA higher than the values indicated on the sound level meter.
- e. Noises not under the direct control of an industrial operation (such as independent transportation facilities) are excluded from these regulations.

**Table VII-2: Noise Limits**

PERFORMANCE STANDARD CATEGORY	MAXIMUM PERMITTED SOUND LEVEL (DBA)		POINT OF MEASUREMENT
	M-1	M-2	
	A	65	
B	75	75	On adjacent commercial land uses
C	80	80	On adjacent industrial land uses



D	80	80	Across industrial boundary lines
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#### 4. Air Quality

- a. Any prospective industry seeking any permits to build in any jurisdiction within Vigo County shall contact the Vigo County Air Pollution Control Department to determine what permits and other related information may be required in addition to any of the other requirements of this Ordinance. Written verification of this contact will be provided by the Vigo County Air Pollution Control Department to the Vigo County Area Planning Department upon request.
- b. The State of Indiana laws, rules and regulations pertaining to air pollution control (including Title 326 of the Indiana Administrative Code), are hereby and hereafter adopted by reference in their entirety. Copies of the Indiana Air Pollution laws, rules and regulations pertaining to air pollution is on file in the Vigo County Air Pollution Control Department for public inspection.
  - i. All applicants and necessary information required by the State of Indiana laws, rules, and regulations for registration, construction, modification or operation of an air pollution source in Vigo County shall be submitted to the Vigo County Air Pollution Control Department for processing and approval as the authorized agent of the Indiana Department of Environmental Management, Office of Air Management.
  - ii. Related fees shall be payable to the Vigo County Air Pollution Control Department.
- c. The Vigo County laws, rules, and regulations pertaining to air pollution control (including Title III, Chapter 44 of the Vigo County Code) are hereby and hereafter adopted by reference in their entirety. Copies of the Vigo County laws, rules and regulations are on file in the Vigo County Air Pollution Control Department.
  - i. All applications and necessary information required by Vigo County laws, rules, and regulations for registration, construction, modification or operation of an air pollution source in Vigo County shall be submitted to the Vigo County Air Pollution Control Department for processing and approval.
  - ii. Related fees shall be payable to the Vigo County Air Pollution Control Department.

- d. In disputes or differences between State of Indiana laws, rules and regulations pertaining to air pollution control and Vigo County laws, rules and regulations pertaining to air pollution control, State law, rule, or regulation will take precedence.
- e. Primary actions and enforcement of the State of Indiana and Vigo County laws, rules, and regulations pertaining to air pollution control is given to the Vigo County Air Pollution Control Department.

### 5. Vibration

- a. No continuous, frequent or repetitive vibrations may be produced which are discernable to a person of normal sensitivities on non-industrial zoned lands. No continuous, frequent or repetitive vibrations may be produced which exceed 0.003g peak on non-industrial zoned lands.
- b. Vibrations from temporary construction and vehicles which leave the site (such as trucks, airplanes, and helicopters) are excluded. Vibrations from primarily on-site vehicles and equipment are included.
- c. Vibrations of no more than five (5) minutes in any one-day will not be considered continuous, frequent, or repetitive for this regulation.
- d. Seismic or electronic vibration measuring equipment may be used for measurements.

## H. MANUFACTURED HOMES

### 1. Intent

It is the intent of this Ordinance to encourage the provisions of alternative modest income housing in general residential areas by permitting the use of Type I Manufactured Homes, as defined in this Ordinance, in all districts in which similar single family dwellings constructed on site are permitted, subject to the requirements and procedures set forth herein to assure acceptable similarity in exterior appearance between such Type I Manufactured Homes and single family dwellings that have been or might be constructed under these and other lawful regulations on adjacent or nearby lots in the same district. It is further the intent of this Ordinance to assist in improving those areas being in need of greater housing opportunities. Type II Manufactured Homes, as defined in this Ordinance, may under certain circumstances be placed in said areas as a Conditional Use.

### 2. Permitted Placement

The establishment, location, and use of manufactured homes as permanent residences approved individually, by specific materials, or by design, shall be permitted in any zone permitting installation of a dwelling unit, subject to requirements and limitations applying generally to such residential use in the district and provided such homes shall meet the following requirements and limitations:

- a. The dwelling shall meet the appropriate Exterior Appearance Standards, as hereinafter set forth in Section VII.I.G.3 below;
- b. The dwelling shall be sited in a district where such use is permitted in Table V-3, District Use Table;
- c. The dwelling shall receive all required permits and conform with the Comprehensive Plan and other ordinances;

### 3. Exterior Appearance Standards

Manufactured homes shall be classified as to acceptable compatibility or similarity in appearance with site-constructed residences, as follows:

- a. **Type I Manufactured Home.** A Type I Manufactured Home is an off-site (factory) constructed, transportable structure designed for permanent residential occupancy when placed on a permanent foundation and connected to utilities and shall:
  - i. Have more than nine hundred fifty square feet (950') of occupied space;
  - ii. Utilize a permanent perimeter enclosure in accordance with approved Installation Standards, as specified in Section VII.I.G.4 below;
  - iii. Be anchored to the ground, in accordance with the One and Two Family Dwelling Code and to the manufacturer's specifications;
  - iv. Have wheels, axles, and hitch mechanisms removed;
  - v. Have utilities connected, in accordance with One and Two Family Dwelling Code and manufacturer's specifications;
  - vi. Have siding material of a type customarily used on site-constructed residences;

- vii. Have roofing material of a type customarily used on site-constructed residences;
  - viii. Be built under the most current provisions of Public Law 360, Acts of 1971 and the Manufactured Housing Construction and Safety Standards Code;
  - ix. Be a minimum of twenty-three feet (23') in width.
- b. Type II Manufactured Home. A Manufactured Home built in compliance with Federal Mobile Home Construction and Safety Act of 1974 or later shall:
  - i. Have more than four hundred eighty (480) square feet of occupied space in a single, double, expando or multi-section unit (including those with add-a-room unit);
  - ii. Be built under the most current provisions of Public Law 360, Acts of 1971 and the Manufactured Housing Construction and Safety Standards Code;
  - iii. Be placed onto a support system, in accordance with approved Installation Standards, as specified in Section VII.I.G.4 below;
  - iv. Be enclosed with foundation siding/skirting, in accordance with approved Installation Standards, as specified in Section VII.I.G.4 below;
  - v. Be anchored to the ground, in accordance with manufacturer's specifications or the ANSI/NFPA 501 A Installation Standards; and
  - vi. Have utilities connected in accordance with manufacturer's specifications or the ANSI/NFPA 501 A Installation Standards.

#### 4. Installation Standards

- a. Permanent Perimeter Enclosure. Those manufactured homes designated as requiring a permanent perimeter enclosure must be set onto an excavated area, with permanent perimeter enclosure foundations, footings and crawl space or basement walls constructed in accordance with the One and Two Family Dwelling Code. The space between the floor joists of the home and the excavated underfloor grade shall be completely enclosed with the permanent perimeter enclosure (except for required openings).

- b. Foundation Siding/Skirting for Temporary Structures. All manufactured or mobile homes without a permanent perimeter enclosure shall have an approved foundation siding/skirting enclosing the entire perimeter of the home. Foundation siding/skirting and back-up framing shall be weather-resistant, noncombustible or self extinguishing materials, which blend with the exterior siding of the home. Below grade level and for a minimum distance of six inches (6") above finish grade, the materials shall be unaffected by decay or oxidation. The siding shall be installed in accordance with manufacturer's recommendations or approved equal standards. The siding shall be ventilated by openings, which shall have a net area of not less than one and one-half square feet (1½') and not more than three square feet (3') for each twenty-five (25) linear feet of exterior perimeter. The openings shall be covered with corrosion resistant wire mesh not larger than one-half (½) inch in any dimension. The underfloor area shall be provided with an eighteen inch (18") by twenty-four inch (24") minimum size access crawl hole, which shall not be blocked by pipes, ducts, or other construction interfering with the accessibility of the underfloor space, or other approved access mechanism.
- c. Support System.
  - i. Type I Manufactured Homes. All HUD-Code Type I Manufactured Home load-bearing foundations shall be installed in conformance with the regulations in One and Two Family Dwelling Code and with the manufacturer's installation specifications.
  - ii. Type II Manufactured Homes. All HUD-Code Type II Manufactured Homes not placed on a permanent foundation, shall be installed on a support system in conformance with the manufacturer's installation specifications or with the Support Systems regulations in the ANSI/NFPA 501 A 1977 Installation Standards.

### I. MOBILE HOME PARKS

In addition to the development standards shown in Table V-10, the following development standards shall apply to a Mobile Home Park as a single development lot:

1. Maximum Gross Density. Ten (10) dwelling units per gross acre.
2. Internal Street Standards. All mobile home lots shall have direct access to an internal street within the mobile home park. There shall be no direct access from any mobile home lot to any perimeter public street. All internal streets shall comply with the following standards in Table VII-3:

Table VII-3: Mobile Home Park Internal Street Standards

	STANDARD	DIMENSION
Minimum Pavement Width	1 way traffic, no parking	12 feet
	1 way traffic, parking on one side	20 feet
	1 way traffic, parking on both sides	28 feet
	2 way traffic, no parking	24 feet
	2 way traffic, parking on one side	32 feet
	2 way traffic, parking on both sides	40 feet
	Sidewalks	3 feet
	Curb and Gutter	2 feet
Maximum Length of Pavement	Cul-De-Sac	150 feet
Minimum Pavement Radius	Cul-De-Sac	60 feet

3. Minimum Lighting Standards. 0.3 foot candles on streets and sidewalks. If provided, individual yard light fixtures on each mobile home lot shall accommodate at least a 40-watt bulb.
4. Minimum Off-Street Parking. Minimum parking spaces for automobiles shall be as follows:
  - a. A minimum of two (2) off-street parking spaces for each mobile home shall be provided for each mobile home space. The minimum size of each such off-street parking space shall be a minimum of two hundred square feet (200') and measuring a minimum of nine feet (9') wide.
  - b. On-street parking may be permitted in place of required off-street parking by widening interior roadways. On-street parking shall be equal to the minimum area required for an equal number of off-street parking spaces. Minimum width of on-street parking spaces shall be nine feet (9').
5. On-Premise Signs. See Chapter VIII for requirements.

6. Minimum Storage. 90 cubic feet per mobile home. Storage areas may be located either:
  - a. In a centralized fireproof building;
  - b. Under the mobile home, within a secured and screened skirting area; or
  - c. In a detached accessory storage building.
7. Skirting. All mobile dwellings in a mobile home park shall be skirted with a fire and weather resistant material which entirely encloses the undercarriage of the mobile dwelling and makes the area under the mobile home secure from animals.
8. Patio. Each dwelling unit in a mobile home park shall be abutted by a concrete patio of at least six feet (6') in width by six feet (6') in length constructed with a minimum thickness of four (4").

### J. PENITENTIARIES

1. Standards for Location of Penitentiaries. Penitentiaries are to be zoned as Conditional Use within the C-3 zoning district.
2. Applicants shall:
  - a. Provide a detailed preliminary map of the property identifying acreage, terrain, and the location of the planned improvements; and
  - b. Provide details of the number of prisoners to be housed at the facility and the square footage of housing area needed to accommodate the planned population; and
  - c. Provide details of the level of security to be provided; and
  - d. Provide details of the anticipated number of employees required for the facility; and
  - e. Provide details of the anticipated utility needs including, but not necessarily limited to, the sewage capacity needed; and
  - f. Provide details of all fencing, landscaping, etc. to screen or otherwise protect abutting properties from adverse effect to public health, safety and welfare and/or property values.

### K. RECREATIONAL VEHICLE PARKS AND CAMPGROUNDS

In addition to the development standards shown on Table VII-4, Recreational Vehicle Park and Campground Standards, the following development standards shall apply to RV parks or campgrounds as a single development lot:

1. Use of Minimum Yards. See Section V.III.A.4 for requirements.
2. Internal Street Standards. All recreational vehicle or tent campsites shall have direct access to an internal street within a recreational vehicle park or campground. There shall be no direct access from any campsite to any perimeter public street. If on-street parking is provided along interior streets, an additional eight feet (8') of pavement width shall be provided per parking lane.
3. Minimum Off-Street Parking. Minimum parking spaces for automobiles shall be as follows:
  - a. One graveled parking space to be provided on each recreational vehicle space.
  - b. Minimum one (1) visitor parking space for every five (5) recreational vehicle spaces. Visitor parking spaces shall be located to provide direct access and convenient use by visitors.
  - c. No vehicular parking shall be permitted along the internal roadway of a recreational vehicle park unless specifically designated for parking per a plan approved by the Director.
4. On-Premise Signs. See Chapter VIII for requirements.



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**Table VII-4: Recreational Vehicle Park and Campground Standards**

STANDARD	DIMENSION
Minimum Lot Area	5 acr./2500 s.f. ①
Minimum Lot Width	100 ft./30 ft. ①
Minimum Front Yard Setback (Along Local Street)	25 ft./15 ft.
Minimum Front Yard Setback (Along Subcollector Street)	30 ft.
Minimum Front Yard Setback (Along Collector Street)	40 ft.
Minimum Front Yard Setback (Along Arterial Street)*	60 ft.
Minimum Side Yard Setback	15 ft./12 ft.
Minimum Side Buffer Yard	40 ft.
Minimum Rear Yard Setback	15 ft./7 ft.
Minimum Rear Buffer Yard	40 ft.
Minimum Campsite Width	22 ft.
Internal Street Minimum Pavement Width: 1 way traffic, no parking	12 ft.
Internal Street Minimum Pavement Width: 2 way traffic, no parking	20 ft.
Minimum Setback from Internal Street	15 ft.
Minimum Distance of Campsite from Buildings or Structures	15 ft.
Maximum Height (Principal Structure)	25 ft.
Maximum Height (Accessory Structure)	20 ft.
① RV Park/RV Lot	
* Or block face average setback of the existing principle structures on the same block, whichever is greater	
* Or plus 1/2 width of roadway if measured from centerline of county road	

### VII.II SITE DEVELOPMENT STANDARDS

#### A. COMMERCIAL DESIGN

Commercial development shall meet the following design standards:

1. Building Façades
  - a. Primary Facades. Ground floor facades abutting public roads and/or parking lots shall have arcades, display windows, entry areas, awnings or other such features. Animating features such as these must total no less than sixty percent (60%) of their horizontal length.
  - b. Secondary Facades. Any facade, other than a primary façade, shall include an expression of architectural or structural bay through a change in plane of no less than twelve inches (12") in width, such as offsets, reveals, or projecting ribs.
  - c. Entrances. Primary facades of large retail establishments shall have clearly defined, highly visible customer entrances that feature unique architectural features including but not limited to: canopies, overhangs, recesses, arcades, peaked roof forms, arches, outdoor patios, display windows, and integral planters.
2. Building Materials and Color
  - a. Predominant exterior building material on all sides shall be high quality material, including the following and other materials with similar appearances and characteristics: brick, native stone, or wood.
  - b. Exterior building material shall not include smooth-faced concrete block, aluminum or vinyl siding, or prefabricated steel panels.
  - c. Color shades shall be used to facilitate unifying the development. Façade colors should be low reflectance, subtle, neutral, or earth tone colors.
3. Building Roof
  - a. Parapets shall conceal flat roofs and rooftop equipment, such as HVAC units, from public view. Average height of such parapets shall not exceed fifteen percent (15%) of the supporting wall.

- b. Overhanging eaves shall extend no more than three feet (3') past the supporting wall.
- c. Sloping roofs shall not exceed the average height of the supporting wall.

### B. OUTDOOR LIGHTING

#### 1. General Provisions

- a. All exterior lighting fixtures, including without limitation commercial, industrial, residential, governmental and street lighting installed after the effective date of this Ordinance shall comply with the requirements of this Section. All exterior lighting fixtures installed prior to the effective date of these Regulations are exempt from the requirements of this Section for a period of five (5) years from that date. After this five (5) year period, all outdoor lighting shall comply with this Section. These regulations shall not apply to interior lighting.
- b. If a nonconforming fixture is replaced, the replacement fixture shall meet the requirements of this Section. Similarly, a conforming fixture shall not be replaced with a nonconforming fixture. A conforming fixture may be replaced with another conforming fixture.
- c. Variance to the provisions of this outdoor lighting Section may be granted / approved by the BZA of the appropriate body in situations where the applicant can provide written evidence that these regulations are in conflict with OSHA requirements.

#### 2. Prohibited Lighting

- a. Any fixture that is not fully shielded with opaque or translucent shielding. Partially shielded fixtures, partial cut-off fixtures and unshielded fixtures are not permitted.
- b. Blinking, flashing, or changing intensity lights, except for lighting required by a governmental authority such as the Federal Aviation Administration (FAA) for air traffic control, or local, state, or federal agencies for vehicular traffic control and warning purposes. (Note: blinking holiday lights are not subject to this restriction.)
- c. Beacon, laser, or searchlights.
- d. Mercury vapor fixtures and or lamps.

- e. Any fixture that impairs motorist safety by casting glare or direct light into the eyes of drivers.
- f. Any fixture that is not directed at the ground or task area or is aimed onto an adjoining property.
- g. Any fixture, or group of fixtures, that produces a light intensity, or cumulative light intensity, that exceeds one-half (0.5) foot-candle at any property line.
- h. Any compliant fixtures that are altered or installed improperly, such that they cast light in a non-compliant manner.

### 3. Additional Provisions

- a. Light shall not be considered to be trespassing if the adjacent property owners have mutually agreed to share the illumination provided by one or more fixtures, irrespective of their shared property lines. This light must still be kept on the subject properties, and must not exceed one-half (0.5) foot-candle at other property lines leading to other uninvolved properties. Further, care must be taken to ensure that the light generated does not impair motorist safety in any fashion.
- b. Fixtures mounted on buildings or other structures shall not exceed a mounting height greater than four feet (4') higher than the tallest part of the building or structure. All other requirements shall also be met, as applicable.
- c. Downward pointing "wall-washer" (wall-mounted sconce-style) fixtures may be installed provided that all other requirements of this Section are met, as applicable. Wall-washer fixtures that direct light both downward and upward, (or upward only), are also permitted, provided that the fixture is fully shielded horizontally, both top and bottom, and that a protruding roof (such as a porch roof or a driveway canopy) or an eave is positioned directly above the fixture, to block light from being directed into the night sky. Wall washer fixtures that upwardly direct light must be positioned no more than six feet (6') below a roof or eave which projects out from the wall and the light fixture sufficient to prevent any direct light passing vertically beyond the roof or eave. Further, if the fixture is mounted near a building's corner, it can be no less than six feet (6') from the vertical plane of the eave at the corner.

### C. PARKING, LOADING AND STACKING

1. Location of Off-Site Parking and Loading Facilities.
  - a. Required off-street parking facilities shall be provided on the same lot as the building or use served, or as provided in Section VII.I.C.6 below.
  - b. Off-street loading spaces, and associated drives and aisles, may be located in any minimum side or rear yard, but shall not be permitted in any minimum required buffer yard.

2. Parking Entrance and Exit Location.

Entrances to and exits from off-street parking facilities shall comply with the following requirements:

- a. Entrances shall not be located on any two-way, undivided street within forty feet (40') of the intersection of the right-of-way of said street and any other street.
- b. Exits shall not be located on any two-way, undivided street within one hundred feet (100') of the intersection of the right-of-way of said street and any other street.
- c. Entrances and exits shall not be permitted on the same side of the street within fifty feet (50') of a lot line of any school, public playground, church, hospital, public library, or institution for dependents or children, except where such entrance or exit is separated by an intervening street.

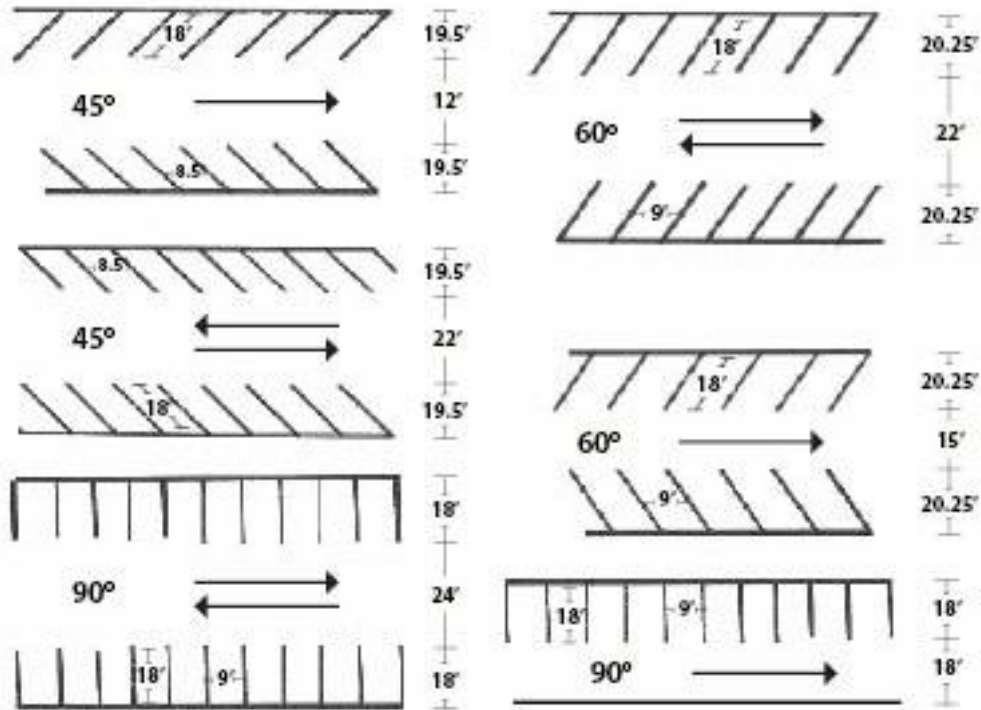
3. Parking and Loading Area Design.

Parking and loading area design shall be in accordance with Figure VII-1 and its accompanying table below:

# SUPPLEMENTARY REGULATIONS

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Figure VII-1: Size of Required Spaces and Aisles



PARKING ANGLE	PARKING SPACE WIDTH	PARKING SPACE LENGTH	AISLE	SINGLE LOADED MODULE WIDTH	DOUBLE LOADED MODULE WIDTH
Parallel	8.0	22.0	12.0 / 22.0 *	20.0 / 30.0 *	28.0 / 38.0 *
0° - 45°	8.5	18.0	12.0 / 22.0 *	31.5 / 41.5 *	51.0 / 61.0 *
46° - 60°	9.0	18.0	15.0 / 22.0 *	35.25 / 42.25 *	55.5 / 62.25 *
61° - 90°	9.0	18.0	18.0 / 24.0 *	36.0 / 60.0 *	51.25

**Two-Way Traffic Authorized**

\* Note: Required parking for stall angles other than those contained in the above table may be interpolated from the table.

\* Note: For purposed of measurement, drives with parking on one side only shall be considered as one-way drives.

Source: Vigo County Area Plan Commission

#### 4. Alternate Parking Plan Approval.

- a. The Director or Zoning Administrator, upon request by an applicant, shall have the authority to modify the parking layout requirements of this Section and approve an alternative parking layout plan so long as the

alternative plan is appropriate to the site and its surroundings and is consistent with the intent and purpose of this Section. Such alternative plan may, by way of example, include: one-way traffic patterns; angle parking; small car parking set-asides; shared parking; or, parallel parking.

- b. The Director or Zoning Administrator may, at his discretion, forward such proposed alternative parking plan to the Plan Commission or City Council for review and approval.
  - c. If the Director or Zoning Administrator disapproves of a proposed alternative parking layout plan, the applicant may, within five (5) business days appeal the Director's decision in writing, stating the reasons and justification of the appeal, and request development plan approval of the Plan Commission for the alternative parking layout plan. Such petition shall be filed consistent with the provisions of any other form of plan approval before the Plan Commission.
5. Joint (Shared) Off-Street Parking or Loading Facilities.
- a. Off-street parking or loading facilities may be provided jointly for separate uses, provided the total number of off-street parking or loading spaces shall not be less than necessary to serve each of the separate uses, as determined by the Director based upon requirements for multiple uses, expected demand generated by the proposed uses, temporal factors and other information from appropriate traffic engineering and planning criteria.
  - b. Where joint off-street parking or loading facilities are provided off-site, such off-site facilities shall not be located greater than three hundred fifty feet (350') from the primary use served by the off-street parking or loading facilities. In addition, said off-street parking or loading facility shall be in the control of the owner of the principal use either by deed or lease.
6. Number of Parking Spaces Required.
- a. The number of off-street parking spaces required for each use is set forth in Table VII-5, Off-Street Parking Requirements. Where the use of the premises is not specifically mentioned, parking requirements shall be determined by the Director or Zoning Administrator based upon requirements for similar uses, expected demand generated by the proposed use, temporal factors and other information from appropriate traffic engineering and planning criteria.
  - b. If, in addition, to a primary use, there are other uses or accessory uses located within or operated in conjunction with the primary use, additional parking spaces, calculated based upon the parking requirements for that

specific use, shall be provided. (Calculation shall be based upon the total square feet of gross leasable floor area for uses located within or operated in conjunction with the primary use.)



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Table VII-5: Off-Street Parking Space Requirements

USE	MINIMUM REQUIRED PARKING SPACES
<b>COMMERCIAL USE</b>	
Amusement establishments	Five (5) spaces per one thousand (1,000) square feet of gross floor area.
Bank or financial institution	Four (4) spaces per one thousand (1,000) square feet of gross floor area.
Bed & Breakfast establishment	One (1) space per guest room; use shared parking analysis for supplementary uses, i.e., single family dwelling unit.
Business or professional office	Three (3) spaces per one thousand (1,000) square feet of gross floor area.
Grocery store	Six (6) spaces per one thousand (1,000) square feet of gross floor area.
Furniture or appliance store	Two (2) spaces per one thousand (1,000) square feet of gross floor area.
Hospital/Medical Center	One (1) space per two (2) beds, plus one and one-half (1.5) spaces per one (1) emergency room bed.
Hotel or motel	One (1) space per guest room; use shared parking analysis for supplementary uses, i.e., restaurant/lounge, meeting/banquet room.
Liquor store	Two (2) spaces per one thousand (1,000) square feet of gross floor area.
Medical/dental office or clinic	Five (5) spaces per one thousand (1,000) square feet of gross floor area.
Restaurant	Sixteen (16) spaces per one thousand (1,000) square feet of gross floor area; use shared parking analysis for supplementary uses, i.e., lounge.
Retail sales or personal services	Four (4) spaces per one thousand (1,000) square feet of gross floor area.
Vehicle dealer sales	One (1) space per one thousand (1,000) square feet of gross floor area.
Vehicle repair	Four (4) spaces per one thousand (1,000) square feet of gross floor area.
<b>INDUSTRIAL USE</b>	
Manufacturing or industrial use	One and one half (1.5) spaces per one thousand (1,000) square feet of gross floor area.

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USE	MINIMUM REQUIRED PARKING SPACES
Warehouse	Three-quarter (0.75) space per one thousand (1,000) square feet of gross floor area.
<b>INSTITUTIONAL USE</b>	
Auditorium, cinema or theater	Five (5) spaces per thousand (1,000) square feet of gross floor area.
Church or religious institution	Three-quarter (0.75) space per seat; use shared parking analysis for supplementary uses, i.e., child care center.
College or university	One (1) space per two (2) employees plus one (1) space per four (4) students.
Club or lodge	Three (3) spaces per one thousand (1,000) square feet of gross floor area.
Correctional facility or penitentiary	One (1) space per five (5) beds.
Elementary or Junior High School	One (1) space per fifteen (15) students.
Golf course	Five (5) spaces per hole, plus one (1) space per two (2) employees.
Government institutions	Three (3) spaces per one thousand (1,000) square feet of gross floor area, or as determined by the Director or Zoning Administrator.
High School	One (1) space per four (4) students.
Library	Two (2) spaces per one thousand (1,000) square feet of gross floor area.
Preschool, nursery, or child care center	One (1) space per one (1) employee plus one (1) space per six (6) students.
Stadium or arena	One (1) space per six (6) seats.
Vocational, trade or business school	One (1) space per two (2) students.
<b>RESIDENTIAL USE</b>	
Boarding houses, fraternity and sorority houses	One (1) space per bedroom.
Dwelling unit: Multi-family	One and one-half (1.5) spaces per dwelling unit, plus one (1) space for visitors per five (5) dwelling units.
Dwelling unit: Single family	2 spaces per dwelling unit.
Nursing home	One (1) space per two (2) beds.

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7. Number of Loading Spaces Required. The number of off-street loading spaces required for each use is set forth in Table VII-6, Off-Street Loading Requirements. Where the use of the premises is not specifically mentioned, loading requirements shall be determined by the Director based upon requirements for similar uses, expected demand generated by the proposed use, temporal factors and other information from appropriate traffic engineering and planning criteria.

**Table VII-6: Off-Street Loading Requirements**

USE	SQUARE FEET OF TOTAL FLOOR AREA	REQUIRED OFF-STREET LOADING BERTHS
<b>COMMERCIAL USE</b>		
Retail or wholesale	10,000 - 24,999	1
	25,000 - 39,999	2
	40,000 - 59,999	3
	60,000 - 100,000	4
	For each additional 50,000 or major fraction thereof	1 additional
Funeral home	For each 5,000	1
Hospital (In addition to space for ambulance)	For 10,000 - 300,000	1
	For each additional 300,000 or major fraction thereof	1 additional
Hotel	For each 10,000	1
Office	For each 10,000	1
<b>INDUSTRIAL USE</b>		
Manufacturing or warehousing	10,000 - 24,999	1
	25,000 - 39,999	2
	40,000 - 59,999	3
	60,000 - 100,000	4
	For each additional 50,000 or major fraction thereof	1 additional
<b>INSTITUTIONAL USE</b>		
School	For each 15,000	1

8. Stacking Space Requirements. The purpose of stacking space requirements is to promote public safety by alleviating on-site and off-site traffic congestion that might otherwise result from the operation of a drive-up or drive-through facility. For all applicable drive-up or drive-through uses, the following off-street stacking requirements shall apply:
- a. At a minimum a stacking space shall be eight and one-half feet (8.5') wide and eighteen feet (18') long.

- b. A stacking space at a drive-in or drive-through window, menu board, order station, designated drop-off zone, or service bay is considered to be a stacking space.
- c. An area reserved for stacking spaces may not double as a circulation driveway, maneuvering area, or off-street parking space.
- d. Stacking spaces may be located anywhere on the building site, provided that traffic impacts on and off site are minimized and the location does not create negative impacts on adjacent properties due to noise, light, or other factors.
- e. A minimum of eight (8) stacking spaces per one thousand (1,000) square feet of gross floor area plus five (5) stacking spaces for the first drive through window and two (2) stacking spaces for each additional window shall be provided.
- f. For uses that have drive-through bays or stalls, e.g., car washes, a minimum of three (3) stacking spaces per bay or stall shall be provided.

#### D. YARDS, BUFFER YARDS, AND LANDSCAPING

1. Use of Minimum Yards and Minimum Buffer Yards. All minimum yards and minimum buffer yards shall be landscaped with grass, trees, shrubbery, or hedge, or in combination with other suitable ground cover materials and shall remain free from structures except where expressly permitted below:
  - a. Minimum Front Yards. A minimum front yard may include driveways provided that a minimum buffer strip of ten feet (10') in depth measured from and paralleling the right-of-way line shall be maintained in compliance with the requirements for a Type B Buffer Yard as set forth below.
  - b. Minimum Front Buffer Yard. A minimum front buffer yard may include driveways provided that a minimum buffer strip of twenty feet (20') in depth measured from and paralleling the right-of-way line shall be maintained in compliance with the requirements for a Type C Buffer Yard as set forth below.
  - c. Minimum Side and Rear Yards. Minimum side and rear yards may include internal driveways connecting to adjoining lots provided that the remainder of said yards shall be maintained as open space free from buildings or structures.

- d. Minimum Side and Rear Buffer Yards. Minimum side and rear buffer yards shall be landscaped with grass and shrubbery, trees, or hedge, or in combination with other suitable ground cover materials and maintained as a buffer strip. in compliance with the requirements for a Type C Buffer Yard as set forth below.

### 2. Standard Plant Units.

- a. One (1) Standard Plant Unit (SPU) shall be provided for each one hundred and fifty lineal feet (150') of required buffer yard. Where there is less than one hundred and fifty feet (150') of length to buffer (or where there is a remainder of less than one hundred and fifty feet (150') after multiples of one hundred and fifty feet (150') have been accounted for), a percentage of the standard plant unit must be provided, equal to that shorter length divided by one hundred and fifty feet (150').
- b. One Standard Plant Unit is equal to:
  - i. One (1) three inch (3") caliper canopy tree, plus two (2) one and one half inch (1.5") caliper understory trees, plus ten (10) three foot (3') high shrubs;
  - ii. One (1) two inch (2") caliper canopy tree, plus one (1) one and one-half inch (1.5") caliper understory tree, plus ten (10) three foot (3') high shrubs, plus one (1) eight foot (8') high evergreen tree;
  - iii. One(1) two foot (2') caliper canopy tree, plus ten (10) three foot (3') high shrubs, plus two (2) six foot (6') high evergreen trees;
  - iv. Ten (10) three foot (3') high shrubs, plus one (1) eight foot (8') high evergreen tree, plus two (2) six foot (6') high evergreen trees; or
  - v. Two (2) three inch (3") caliper canopy trees, plus one (1) two inch (2") caliper canopy tree, plus ten (10) three foot (3') high shrubs.

- c. Table VII-7, Standard Plant Units gives the number of Standard Plant Units required for each type of buffer yard from Type A through Type E.

**Table VII-7: Standard Plant Unit Requirements**

TYPE OF BUFFER YARD	NUMBER OF STANDARDS PLANT UNITS PER 150 LINEAR FEET
A	1
B	2
C	3
D	4
E	5

- 3. Location of Plants. The property owner will decide the exact placement of required plants. No plant materials shall be located so as to interfere with the sight prism requirements of this Ordinance or otherwise create traffic hazards by obstructing the view of drivers using streets, alleys, and driveways.
- 4. Allowance for Preservation of Existing Trees and Vegetation. The provision of landscaping in required yards as provided for in this Section shall be modified in any situation in which existing trees and vegetation are preserved. A credit for the planting of trees of one-half inch (1/2") for each one inch (1") of aggregate tree caliper preserved shall be awarded to the landscaping required by this Section. A credit for the preservation of undergrowth and shrubs shall be awarded on a one to one (1:1) basis for the lineal feet of screening provided by the existing undergrowth and shrubs.
- 5. Parking Lot Landscaping. When any development provides parking for more than ten (10) vehicles, at least ten percent (10%) of the total area of the parking lot shall be used for landscaping and/or aesthetic treatments. In addition:
  - a. A minimum of one (1) tree (planted in tree islands) for each five (5) parking spaces shall be located within the parking area/lot.
  - b. Tree islands shall be installed intermittently, have a length equal to a parking stall, be four feet (4') by four feet (4') in dimension at a minimum to protect plantings from vehicles and foot traffic and to accommodate a tree root system.
  - c. All unimproved earth areas shall be planted, restored or otherwise protected from erosion.

- d. Ongoing maintenance, including the replacement of dead or unhealthy plants, shall be provided by the parking area owner/leaseholder.
6. Alternate Landscape Plan Approval.
- a. The Director or Zoning Administrator, upon request by an applicant, shall have the authority to modify the landscape requirements of this Section and approve an alternative landscape plan so long as the alternative plan is appropriate to the site and its surroundings and is consistent with the intent and purpose of this Section. Such alternative landscape plan may, by way of example, include: mounds; berm; low-level fence or wall; screening devices; preservation of existing vegetation or natural features; or, a clustering of plant materials.
  - b. The Director or Zoning Administrator may, at his discretion, forward such proposed alternative landscape plan to the Plan Commission or Board of Zoning Appeals for review and approval.
  - c. If the Director or Zoning Administrator disapproves of a proposed alternative landscape plan, the applicant may, within five (5) business days, appeal the Director's or Zoning Administrator's decision in writing, stating the reasons and justification of the appeal, and request landscape plan approval of the Plan Commission or Board of Zoning Appeals for the alternative landscape plan.

### VII.III EXEMPTIONS AND EXCEPTIONS

#### A. EXEMPTIONS TO HEIGHT LIMITATIONS

The following items shall be exempt from the building height limitations contained in individual zoning districts:

1. Chimneys, church spires, flag poles, accessory transmission and communication antenna, and similar structural appendages not intended as places of occupancy or storage, provided that no more than one-third (1/3) of the total roof area is occupied by such features.
2. Free-standing flag poles, accessory transmission and communication towers, and other similar structures, provided that such structures, and any guy wire anchors associated with such structures, shall be located in compliance with all setback provisions of the zoning district in which they are located.
3. Heating, ventilation and air conditioning equipment; roof water tanks; elevator shafts; solar collectors; skylights; and similar equipment to operate and maintain the building, provided that no more than one-third (1/3) of the total roof area is occupied by such features and further provided that such equipment shall be setback from the edge of the roof a minimum distance of one foot (1') for each floor ten feet (10') in elevation that such equipment, fixtures or devices extend above the roof surface.

#### B. OUTDOOR LIGHTING EXEMPTIONS

1. Lights used for the illumination of stadium and other outdoor sports arenas shall be extinguished by 10:00 p.m. or immediately after the conclusion of the final event. No new event, activity, or game may start after 10:00 p.m. The remainder of the facility lights, except for reasons of safety or security, must be extinguished at 10:00 p.m. or within one (1) hour after the conclusion of the final event.
2. Upward flagpole lighting employed for government and institutional illumination of government flags after dusk. The light must be directly aimed at the flag, must be narrowly focused, and must only be sufficient to properly illuminate the flag.
3. Airport operations lighting and aircraft navigational beacons that are required and controlled by regulations established by the FAA. All other outdoor airport lighting must conform to these regulations.



4. Carnivals, fairs, special events and festivals that require the use of temporary outdoor lighting fixtures. Any permanent installations must conform to these regulations, and in no event shall lighting be allowed to impair motorist safety in any fashion.
5. Holiday lighting shall be exempt from the shielding requirement when utilizing seven and one-half (7.5) watt or smaller lamps, and is used for temporary “holiday” lighting. All other requirements shall be met, as applicable.
6. Walking path fixtures of nine (9) watts or less each are exempt from the shielding requirement, provided that, all other requirements are met, as applicable.
7. Camping lights that produce light directly from natural gas or propane are exempt from the shielding requirements, provided that they are used intermittently for their intended purposes and not used as regular outdoor lighting. All other requirements shall be met, as applicable.
8. Exposed neon lighting is exempt from the shielding requirement, provided that all other requirements are met, as applicable.
9. Agricultural lighting fixtures for the purpose of working livestock at night are exempt from the shielding requirement, except that they shall not project light directly into the sky, nor be illuminated when it is not necessary to be actively working with livestock. All other requirements shall be met, as applicable.

### C. EXCEPTIONS FOR UPPER LEVEL DWELLINGS IN COMMERCIAL DISTRICTS

Notwithstanding any provisions of this Ordinance to the contrary, including provisions for nonconforming uses and structures contained in Chapter V of this Ordinance, any commercial building located in a C-1, C-2, C-3, or CBD zoning district which is designed, constructed, or renovated to include a dwelling unit(s) in an upper level(s) shall be permitted to use, maintain, repair, operate or otherwise commence, continue or reuse such areas for dwelling purposes.

### D. YARD EXEMPTIONS

In all zoning districts, the following shall be exempt from the required yard and setback provisions:

1. Awnings, canopies, eaves, cornices or other laterally supported extensions, gutters, and one story bay windows, in each case not extending more than four feet (4') into a required yard;
2. Stair steps not exceeding four feet (4') above grade and not extending more than four feet (4') into a required yard;

## SUPPLEMENTARY REGULATIONS

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3. Chimneys not projecting more than twenty-four inches (24") into any yard;
4. Arbors and trellises;
5. Flag poles; and
6. Fences and walls not exceeding forty-two inches (42") in height in a front yard or six feet (6') in height in a side or rear yard, provided, however, the height of a fence or wall in a side or rear yard may be increased to ten feet (10') if the visibility through the fence at right angles is not reduced by more than eighty percent (80%).