Division 10-40.50: Overlay Zones

Sections:

10-40.50.010 Purpose
10-40.50.020 Applicability
10-40.50.030 Overlay Zones
10-40.50.040 AO Zone Additional Requirements

10-40.50.010 Purpose

This Division provides regulatory standards governing land use and building form within the Overlay Zones. These standards are intended to ensure that proposed development is compatible with existing and future development and produces an environment of desirable character consistent with the General Plan. The General Plan along with the underlying zones shall guide appropriate densities in the Overlay Zones.

10-40.50.020 Applicability

The requirements of this Division shall apply to all proposed development within Overlay zones, and shall be considered in combination with the standards in Chapter 10-50 (Supplemental to Zones) and Division 10-40.60 (Specific to Uses). If there is a conflict between any standards, the provisions of this Division control over Chapter 10-50 (Supplemental to Zones), and the provisions of Division 10-40.60 (Specific to Uses) control over this Division and Chapter 10-50 (Supplemental to Zones).

Refer to Chapter 10-100 (Maps) for application of the overlay zones on the Zoning Map.

10-40.50.030 Overlay Zones

A. **Intent**

1. **AO**
The Airport Overlay (AO) Zone applies to areas of the City in the vicinity of the City's Pulliam Municipal Airport.

   a. The Zone ensures that land uses in the airport area are mutually compatible with the operation of the airport and that any public investment in the airport is protected. In addition, the AO Zone shall also have the following purposes:

      (1) The AO Zone is established for the general purpose of controlling conflicts between land uses and noise generated by aircraft and to protect the public health, safety, and welfare from adverse impacts associated with excessive noise. The AO Zone shall also provide acoustical performance standards as set forth in Section 10-40.50.040 (AO Zone Additional Requirements).

      (2) The AO Zone is further intended to regulate land uses within designated existing or projected airport impact areas by providing height restrictions which will assure safe, unobstructed access for all aircraft which enter and exit Pulliam Airport.

   b. This Zone is mapped in Section 10-90.40.010 (Airport Overlay Map).

2. **DO**
The Downtown Overlay (DO) Zone applies to areas of the City subject to the Design Handbook for Downtown Flagstaff for the development of properties located within the boundaries of the Zone.

   a. The requirements of the DO Zone are intended to promote the preservation and unique character of all structures within the Zone.

   b. This Zone is mapped in Section 10-90.40.030 (Downtown Historic District Map).

3. **LO**
The Landmarks Overlay (LO) Zone applies to areas of the City subject to the Landmark Design Review Overlay District Design Standards and Guidelines and design review by the Heritage Preservation Commission for the development of properties located within the boundaries of the Zone.

a. The requirements of the LO Zone are intended to promote the preservation and unique character of all structures within the Zone.

4. **RPO**
The Resource Protection Overlay (RPO) Zone applies to areas of the City that warrant protection of natural resources, including floodplains, steep slopes, and forests.

a. The requirements of the RPO Zone are intended to maintain existing Natural Resources and to ensure that proposed development is consistent with the character of its natural surroundings. Within this Zone, projects will be designed to incorporate native habitat and natural features onsite as they provide important visual, environmental, health, and economic benefits. (See Division 10-50.90 (Resource Protection Standards) for the purpose of the RPO Zone, and additional standards.)

b. This Zone is mapped in Section 10-90.40.050 (Resource Protection Overlay Map).

5. **TO**
The Townsite Overlay (TO) Zone applies to areas of the City subject to the Townsite Historic Design Review Overlay District Design Standards and Guidelines and design review by the Heritage Preservation Commission for the development of properties located within the boundaries of the Zone.

a. The requirements of the TO Zone are intended to promote the preservation and unique character of the Zone and all structures within the Zone.

b. This Zone is mapped in Section 10-90.40.060 (Townsite Historic District Map).

B. Allowed Uses					
Land Use	Overlay Zones				
	AO	DO	LO	RPO[1]	TO
	Refer to underlying zoning				

C. Building Form Standards	AO	DO	LO	RPO	TO
Building Placement Requirements					
Setback					
Front	Refer to underlying zoning				
Side	Refer to underlying zoning				
Side Exterior	Refer to underlying zoning				
Rear	Refer to underlying zoning				
Building Form Requirements					
Building Height					
Primary Structure	Refer to underlying zoning				25' [1,2,3]
All Other Structures	Refer to underlying zoning				16' [1,2,3]
Coverage	Refer to underlying zoning				
Density and Lot Size Requirements					
Gross Density (units/acre)	Refer to underlying zoning				
Net Density (units/acre)	Refer to underlying zoning				
Gross FAR	Refer to underlying zoning				
Net FAR	Refer to underlying zoning				
Site Area (sf)	Refer to underlying zoning				
Lot Size (sf/unit)	Refer to underlying zoning				
Lot Requirements					
Lot Width	Refer to underlying zoning				
Lot Depth	Refer to underlying zoning				
Other Requirements					
Fencing and Screening	See Division 10-50.50				
Landscaping	See Division 10-50.60				
Lighting	See Division 10-50.70				
Parking	See Division 10-50.80				
Signs	See Division 10-50.100				

End Notes

[1] No point on the structure shall exceed height limit measured from existing or natural grade, excluding chimneys, towers, and similar non-habitable architectural projections.

[2] All structures designed with roof pitches greater than 9:12 (rise:run) may exceed the height limit by one foot.

[3] All structures designed with raised wood floors and non-slab foundations may exceed the height limit by two feet.

10-40.50.040 AO Zone Additional Requirements

A. Applicability

1. This Zone shall be in addition to and shall overlay all other zones where it is applied so that any parcel of land lying in the AO Zone shall also lie in one or more of the other zones provided by this Zoning Code. The effect is to create a new zone that has the characteristics and limitations of both the underlying and the overlying zones.

2. Through the adoption of AO Zone requirements, public hearings, and noticing it has become public knowledge (to landowners and prospective landowners) that airport operations should be considered as possibly affecting the use of property within the AO Zone.

B. AO Zone - Establishment of Airport Noise Impact Areas and Clear Zone Areas

1. **Airport Noise Impact Areas**

a. Airport Noise Impact Areas shall be established in order to distinguish between the severity of the levels of noise impact so that appropriate uses and acoustical performance standards can be established to mitigate the adverse impacts of aircraft noise to protect the public health, safety, and welfare.

(1) Noise levels shall be classified into noise zones, and the Day-Night Average Sound Level (DNL) classifications shall be used for all noise sources. DNL shall be mathematically symbolized as Ldn.

(2) For the purpose of administering these regulations, there shall be three Airport Noise Impact Areas as follows:

(a) AP-1 for areas of Ldn 60-65;

(b) AP-2 for areas of Ldn 65-70; and

(c) AP-3 for areas of Ldn 70-75.

b. The only Noise Impact Area shown on the Zoning Map is 2.a above. Changes of Noise Impact Areas will occur automatically with Airport Master Plan Updates.

2. **Clear Zone (CZ) Area**
For the purposes of administering these regulations, there shall be one Clear Zone (CZ) Area in order to regulate area height limitations.

C. **AO Zone Uses and Noise Level Reduction**

1. All uses shall be permitted by right in the underlying zone(s), except as qualified by Table A.

2. All uses shall be permitted by Conditional Use Permit in the underlying zone(s), except as qualified by Table A.

3. **Use Limitations and Noise Level Reduction (NLR) Standards**
In addition to the use limitations presented for the zone in which an Airport Noise Impact Area is located, the following residential use limitations shall apply:

   a. Although local conditions may require residential use, it is discouraged in AP.2 and strongly discouraged in AP.3. The absence of viable alternative development options should be determined and an evaluation indicating that a demonstrated community need for residential use would not be met if development were prohibited in these areas should be conducted prior to approvals.

   b. Where the City determines that residential uses must be allowed, measures to achieve outdoor to indoor Noise Level Reduction (NLR) of at least 25 dB (AP-2) and 30 dB (AP-3) should be incorporated into building plans and be considered in individual approvals. Normal construction can be expected to provide a NLR of 20 dB, thus the reduction requirements are 5, 10, or 15 dB over standard construction and normally assume mechanical ventilation and closed windows year round. Additional consideration should be given to modifying NLR levels based on peak noise levels.

   c. NLR criteria will not eliminate outdoor noise problems. However, building location and site planning, design and use of berms and barriers can help mitigate outdoor noise exposure particularly from ground level sources. Measures that reduce noise at a site should be used wherever practical in preference to measures which only protect interior spaces.

Table 10-40.50.030.A Land Use Compatibility Guidelines

Land Use [1]	AP-1 60-65	AP-2 65-70	AP-3 70-75
Industrial, Manufacturing, Processing & Wholesaling	Yes	Yes	Yes[2]
Ranching, Forestry, & Animal Keeping	Yes[3]	Yes[3]	Yes[4]
Recreation, Education, & Assembly [5]	Yes	Yes	25
Residential			
Dwelling: Cluster	25	25[5]	No
Dwelling: Single-family	25	25[5]	No
Dwelling: Multiple-family (Second floor or above)	25	25[5]	No
Manufactured Home, Park, Subdivision	No	No	No
Retail Trade [5]	Yes	Yes	Yes[4]
Services - General [5]	Yes	Yes	Yes
Hospitals, Nursing Homes	No	No	No
Medical Services	Yes	Yes	25
Governmental	Yes[2]	Yes[2]	25[7]

Land Use [1]	AP-1 60-65	AP-2 65-70	AP-3 70-75
Educational	No	No	No
Cultural	Yes[2]	Yes[2]	30[7]
Nature Exhibits	Yes[2]	Yes[2]	No[7]
Public Assembly	Yes	Yes	No
Auditoriums, Concert Halls	Yes	25	30
Outdoor Music Shells, Amphitheaters	Yes[2]	No	No
Outdoor Sports Arenas	Yes	Yes[8]	Yes[8]
Spectator Sports	Yes	Yes[8]	Yes[8]
Amusements	Yes	Yes	Yes
Recreation (including golf courses, riding stables, water recreation)	Yes[2]	Yes[2]	25[6]
Resort and Group Camps	Yes[2]	Yes[2]	No
Parks	Yes[2]	Yes[2]	Yes[2]
Other Cultural Entertainment and Recreational	Yes[7]	Yes[7]	Yes[7]

End Notes

[1] A definition of each listed use type is in Chapter 10-80 (Definitions).

[2] Measures to achieve NLR of 25 dB must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas, or where the normal noise level is low.

[3] These buildings intended for human occupancy require a NLR of 25 dB.

[4] Residential buldings require a NLR of 30 dB.

[5] Unless the use is listed more specifically in this table.

[6] Refer to Subsection 3.

[7] The designation of these uses as "compatible" in this area reflects individual Federal Agencies' consideration of general cost and feasibility factors, as well as past community experiences and program objectives.

[8] Land use compatible if special sound reinforcement systems are installed that mitigate indoor sound impacts.

Key	
Yes	Land use and related structures compatible.
No	Land use and related structures are not compatible and shall be prohibited.
NLR	Noise Level Reduction. NLR (outdoor to indoor) to be achieved through incorporation of noise.
25 or 30	Land use and related structures generally compatible; measures to achieve NLR of 25 dB, or 30 dB, must be incorporated into design and construction of structure.
25[7] or 30[7]	Land use generally compatible with NLR; however, measures to achieve an overall reduction do not necessarily solve noise difficulties and additional evaluation is warranted.

D. **AO Zone - Pulliam Airport Area Height Limitations**

1. In order to carry out the provisions of this Zoning Code, airport zones and surfaces are established. The airport zones are shown on Figure A (Imaginary Surfaces Used to Define Airspace in the Vicinity of Pulliam Airport). An area located in more than one of the airport zones or surfaces shall be considered to be only in the airport zone or surface with the more restrictive height limitation.

2. Except as otherwise provided, no structure shall be constructed or maintained, or tree permitted to grow, within any airport zone or surface in excess of the height limitation established by this Subsection. In addition, no structure or obstruction will be permitted that would cause a minimum obstruction clearance altitude, a minimum descent altitude, or a decision height to be raised.

3. Airport zones and surface height limitations are established for Pulliam Airport as presented in Figure A. Base elevations for the runway, primary surface, and other appropriate areas shall be in compliance with "Drawings No.5 and No. 6 for clear zone areas of the Airport Master Plan Update for Pulliam Airport, Flagstaff, Arizona prepared by Coffman Associates, Airport Consultants and dated October 1, 1984, including any subsequent amendments, and data contained in Part 77, Airspace Height Limitation of Plan" (Airport Master Plan clear zone drawings).

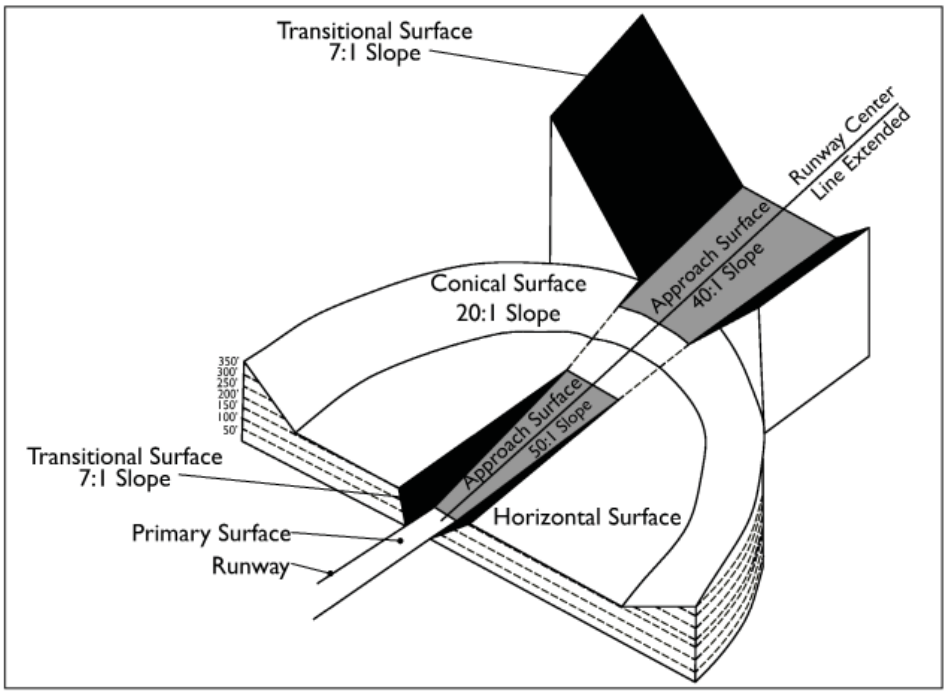

Figure A. Imaginary Surfaces Used to Define Airspace in the Vicinity of Pulliam Airport

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Division 10-40.60: Specific to Uses

Sections:

10-40.60.010 Purpose and Applicability
10-40.60.020 Accessory Buildings and Structures
10-40.60.030 Accessory Dwelling Units (ADUs)
10-40.60.040 Accessory Wind Energy Systems
10-40.60.050 Adult Entertainment
10-40.60.060 Airport/Landing Strips, Heliport, or Helistops
10-40.60.070 Animal Keeping
10-40.60.080 Automobile, Go-kart, and Miniature Automobile Racing
10-40.60.090 Automobile Service Station and Convenience Store
10-40.60.100 Automobile/Vehicle Repair Garage - Major/Minor
10-40.60.110 Bed and Breakfasts
10-40.60.120 Co-housing
10-40.60.130 Commercial Campground
10-40.60.140 Community Garden
10-40.60.150 Day Care Home and Center
10-40.60.160 Drive-through Retail
10-40.60.170 Dwelling, Cluster
10-40.60.180 Home Occupations
10-40.60.190 Homeless Shelter
10-40.60.200 Live/Work
10-40.60.210 Manufactured Home
10-40.60.220 Medical Marijuana Uses
10-40.60.230 Meeting Facilities, Public and Private
10-40.60.240 Mini-Storage Warehousing
10-40.60.250 Mixed Use
10-40.60.260 Outdoor Commercial Recreation Structures
10-40.60.270 Planned Residential Development
10-40.60.280 Quarrying Operations
10-40.60.290 Research and Development Uses
10-40.60.300 Secondary Single-Family Dwelling
10-40.60.310 Telecommunication Facilities
10-40.60.320 Warehousing

10-40.60.010 Purpose and Applicability

A. This Division provides site planning, development, and operating standards for certain land uses where allowed in compliance with Division 10-40.30 (Non-Transect Zones) and Division 10-40.40 (Transect Zones) and for activities that require special standards to ensure their compatibility with site features and existing uses. For land uses that are not discussed in the following Sections, refer to Chapter 10-80 (Definitions).

B. Parking for all of the land uses shall be provided in compliance with Division 10-50.80 (Parking Standards).

C. Signage for all of the land uses shall be provided in compliance with Division 10-50.100 (Sign Standards).

D. The standards in this Division are separated in Table A (Zone Applicability) as those applicable to all zones and those applicable to non-transect zones.

Table 10-40.60.010.A: Zone Applicability

Applicable to All Zones (Non-transect and Transect)	Applicable to Non-transect Zones
Accessory Building and Structures	Airport/Landing Strips, Heliport, or Helistops
Accessory Dwelling Units	Automobile, Go-Kart, Miniature Automobile Racing
Accessory Wind Energy Systems	Drive-through Retail
Adult Entertainment	Dwelling, Cluster
Animal Keeping	Manufactured Home
Automobile Service Station and Convenience Store	Medical Marijuana Uses
Automobile/Vehicle Repair Garage - Major/Minor	Mini-storage Warehousing
Bed and Breakfasts	Outdoor Commercial Recreation Structures
Co-housing	Planned Residential Development
Commercial Campground and Recreational Vehicle Park	Quarry Operations
Community Garden	Research and Development Uses
Day Care Home and Center	Secondary Single-family Dwellings
Home Occupation	Warehousing
Homeless Shelter	

Table 10-40.60.010.A: Zone Applicability	
Applicable to All Zones (Non-transect and Transect)	**Applicable to Non-transect Zones**
Live/Work	
Mixed Use	
Meeting Facilities, Public and Private	
Telecommunication Facilities	

10-40.60.020 Accessory Buildings and Structures

A. **Applicability**
Accessory buildings and structures shall be permitted in all zones in compliance with this Section, provided each is incidental and subordinate to the principal use or structure. There must be a primary use established and either a principal structure on the parcel or a building permit for a principal structure issued prior to, or simultaneously with, the issuance of a building permit for an accessory building or structure. Children's play houses and tree houses that do not exceed 120 square feet in floor area are not considered accessory structures and do not require a Building Permit. Sheds less than or equal to 120 square feet in floor area also do not require a Building Permit.

B. **Uses**

1. An accessory structure shall be used in compliance with the permitted uses of the zone within which it is located and, if applicable, the Home Occupation regulations in Section 10-40.60.180 (Home Occupations).

2. The use of accessory buildings or structures shall be incidental to the primary use and shall not alter the character of the primary use.

3. Temporary, occasional, seasonal or periodic uses in connection with established retail stores or shopping centers, such as outdoor garden centers, sidewalk sales, or sales promotions, are considered accessory uses and not subject to a temporary use permit in compliance with Section 10-20.40.150 (Temporary Use Permits).

C. **Standards**

1. No manufactured home, mobile home, trailer, semi-trailer, bus, recreation vehicle, boxcar or storage container shall be used as an accessory building or structure, except as permitted in Subsection D below.

2. Accessory buildings and structures shall be governed by the lot coverage, floor area ratio and setback requirements of the zone in which they are located, except as provided below.

   a. On any residential lot less than one acre, the total floor area of all accessory buildings and structures (including ADUs (Section 10-40.60.030)) shall be less than that of the principal building(s) on the site.

   b. The distance between a principal structure and an accessory structure shall be established by the Building Code. This distance may vary by occupancy type.

   c. Accessory buildings and structures are not permitted in any exterior side setback and shall not occupy any portion of a required setback except as provided in Table A (Accessory Structure Height and Location Standards).

   d. One-story accessory structure(s) no more than 16 feet in height may be constructed on any lot no closer than five feet from the rear or interior side property line, except that on corner lots no accessory structure shall be permitted in any exterior yard.

   e. Encroachments into minimum required setbacks shall be in compliance with Division 10-50.40 (Encroachments).

   f. The maximum height of all accessory buildings and structures shall be 24 feet except as provided in Table A (Accessory Structure Height and Location Standards), unless the zone or overlay zone has a more restrictive height limit.

Table 10-40.60.020.A: Accessory Structure Height and Location Standards	
Location	**Height (feet)**
Non-livable structures (e.g. garage, workshop, carport, shed, greenhouse)	
Within Buildable Area	24'
Min. 5' Setback to Rear, On Interior Side Property Line, and On Rear Property Line with Alley[1]	16'
Livable structures (e.g. ADU, studio or home office)[2]	
Within Buildable Area	24'
Min. 5' Setback to Rear and on Interior Side Property Line	16'

End Notes

[1]Structures located on property lines shall be required to comply with applicable City Building Code and Fire Code requirements.

[2]These livable structures may be located above a garage or other non-livable space.

D. **Temporary and Permanent Storage Containers**

1. **Residential Zones**
The following standards apply to the temporary and permanent use of storage containers located in all residential zones.

a. **Temporary Use**

(1) In the case of fire, flood, or other emergency situation, storage containers may be placed, stored, or used for temporary storage on property zoned for residential use, provided the owner has obtained a Temporary Use Permit from the Director within three days of the emergency. The duration of the temporary storage use shall be limited to a maximum of 90 days within a calendar year, with the option to renew the permit one time, for a period not to exceed 90 days.

(2) Storage containers may be placed, stored, or used for temporary storage on property zoned for residential use for minor remodeling projects for which a building permit is not required provided the owner has obtained a Temporary Use Permit from the Director. The duration of the temporary storage use shall be limited to a maximum of 90 days within a calendar year, with the option to renew the permit one time, for a period not to exceed 90 days.

(3) Storage containers may be placed, stored, or used for temporary storage on property zoned for residential use if a building permit

has been obtained from the City for major/new construction involving principal or accessory structures located on the subject property. The use shall be permitted for the time period beginning with issuance of the building permit, and expiring seven days after the issuance of a Certificate of Occupancy, at which time the storage container shall be removed.

(4) Storage containers used for temporary storage may be placed within the rear, side, or front setback, and shall not be placed in the public right-of-way unless a Right-of-Way Encroachment Permit has been obtained from the City Engineering Section.

(5) Storage containers may be temporarily placed on property zoned for residential use for the purpose of loading or unloading household contents while in the process of moving, for a period not to exceed 14 days.

(6) Storage containers mounted on trailers/wheels shall not be permitted for temporary use in residential zones.

(7) No signs shall be permitted to be placed on any part of a storage container, except for a sign displaying the name of the storage container business which shall be limited to a sign area of six square feet.

b. **Permanent Use**
Storage containers may be permitted for permanent use in residential zones, subject to approval of a Minor Improvement Permit (See Section 10-20.40.080) and the following conditions:

(1) The storage container shall be considered an accessory structure to the principal structure. No storage containers are permitted on vacant or undeveloped lots where no primary structure or use has been established;

(2) Storage containers may only be placed in rear yards and interior side yards in compliance with the standards provided in Table 10-50.40.020.A (Allowed Encroachments into Setbacks and Heights), and are not permitted in front yards or exterior side yards. Compliance with all applicable regulations of the Zoning Code is required, including lot coverage restrictions;

(3) No more than one storage container is permitted on any residential lot or parcel;

(4) The maximum size for a storage container located on property zoned for residential use shall be 160 square feet;

(5) The maximum height of a storage container used for storage purposes shall be nine feet measured from natural grade to the top of the container;

(6) Storage containers shall be painted a neutral, earth tone, or to match the primary building near where they are placed;

(7) Storage containers shall be used for storage only, and shall not otherwise be occupied as habitable space. Storage containers shall not be connected to sewer, water or gas service, but may be permitted to have electrical service for lighting/plug-ins;

(8) No signs shall be permitted to be placed on any part of a storage container; and

(9) Storage containers mounted on trailers/wheels shall not be permitted for permanent use in residential zones.

2. **Commercial and Research and Development Zones**
The following standards apply to the temporary and permanent use of storage containers located in all commercial and research and development zones.

a. **Temporary Use**

(1) In the case of fire, flood, or other emergency situation, storage containers may be placed, stored, or used for temporary storage on property zoned for commercial or research and development uses, provided the owner has obtained a Temporary Use Permit from the Director. The duration of the temporary storage use shall be limited to a maximum of 120 days within a calendar year, with the option to renew the permit one time at the discretion of the Director, for a period not to exceed 90 days. Storage containers may be placed within the front setback, and shall not be placed in the public right-of-way unless a Right-of-Way Encroachment Permit has been obtained from the City Engineering Section.

(2) Storage containers may be placed, stored, or used for temporary storage on property zoned for research and development uses for minor remodeling projects for which a building permit is not required, provided the owner has obtained a Temporary Use Permit from the Director. The duration of the temporary storage use shall be limited to a maximum of 90 days within a calendar year, with the option to renew the permit one time, for a period not to exceed 90 days.

(3) Storage containers may be placed, stored, or used for temporary storage on property zoned for commercial or research and development uses if a building permit has been obtained from the City for major/new construction on the subject property. The use

shall be permitted for the time period beginning with issuance of the building permit, and expiring seven days after the issuance of a final certificate of occupancy, at which time the storage container shall be removed. Storage containers may be placed within the front setback, and shall not be placed in the public right-of-way unless a Right-of-Way Encroachment Permit has been obtained from the City Engineering Section.

(4) In the case of seasonal sales events, storage containers may be placed, stored, or used for temporary storage on property zoned for commercial or research and development uses, provided the owner has obtained a Temporary Use Permit from the Director. The duration of the temporary storage use during a seasonal sales event shall be limited to a maximum of 120 days within a calendar year, with the option to renew the permit one time by the Director, for a period not to exceed 30 days. Storage containers used for sales events shall be placed in an area that is not visible from the public right-of-way, unless the container is placed in the loading/dock area of the subject business.

(5) Storage containers mounted on trailers/wheels shall not be permitted for temporary use in commercial and research and development zones.

(6) No signs shall be permitted to be placed on any part of a storage container, except for a sign displaying the name of the storage container business which shall be limited to a sign area of six square feet.

b. **Permanent Use**
Storage containers may be permitted for permanent use in commercial and research and development zones, subject to approval of a Minor Improvement Permit (See Section 10-20.40.080) and the following conditions:

(1) The storage container shall be considered an accessory structure to the principal structure. No storage containers are permitted on vacant or undeveloped lots where no primary structure or use has been established;

(2) Storage containers shall only be placed in compliance with all applicable regulations of the Zoning Code, including setbacks, FAR, and lot coverage restrictions;

(3) Storage containers shall not be placed in parking areas nor in a location where they are visible from public rights-of-way, unless the container is placed in the loading/dock area of the subject business;

(4) The maximum size for a storage container located on property zoned for commercial or research and development uses shall be 384 square feet;

(5) The maximum height of a storage container used for storage purposes shall be 10 feet measured from natural grade to the top of the container;

(6) Storage containers shall be painted a neutral, earth tone, or to match the primary building near where they are placed;

(7) Storage containers shall be used for storage only, and shall not otherwise be occupied as habitable space. Storage containers shall not be connected to sewer, water or gas service, but may be permitted to have electrical service for lighting/plug-ins;

(8) No signs shall be permitted to be placed on any part of a storage container; and

(9) Storage containers mounted on trailers/wheels shall not be permitted in commercial and research and development zones.

3. **Industrial and Public Lands Zones**
The following standards apply to the temporary and permanent use of storage containers located in all Industrial and Public Lands Zones.

a. **Temporary Use**

(1) In the case of fire, flood, or other emergency situation, storage containers may be placed, stored, or used for temporary storage on property zoned for industrial or public lands use, provided the owner has obtained a Temporary Use Permit from the Director. The duration of the temporary storage use shall be limited to a maximum of 120 days within a calendar year, with the option to renew the permit one time at the discretion of the Director, for a period not to exceed 90 days.

(2) Storage containers may be placed, stored, or used for temporary storage on property zoned for industrial or public lands use for minor remodeling projects for which a building permit is not required, provided the owner has obtained a Temporary Use Permit from the Director. The duration of the temporary storage use shall be limited to a maximum of 120 days within a calendar year, with the option to renew the permit one time, for a period not to exceed 90 days.

(3) Storage containers may be placed, stored, or used for temporary storage on property zoned for industrial or public lands use if a building permit has been obtained from the City for new development on the subject property. The use shall be permitted

for the time period beginning with issuance of the building permit, and expiring seven days after the issuance of a Certificate of Occupancy, at which time the storage container shall be removed.

(4) Storage containers used for temporary storage may be placed within the front setback, and shall not be placed in the public right-of-way unless a Right-of-Way Encroachment Permit has been obtained from the City Engineering Section.

(5) No signs shall be permitted to be placed on any part of a storage container, except for a sign displaying the name of the storage container business which shall be limited to a sign area of six square feet.

b. **Permanent Use**
Permanent storage containers shall be permitted on property zoned for industrial or public facilities use, subject to approval of a Minor Improvement Permit (See Section 10-20.40.080) and the following conditions:

(1) The storage container shall be considered an accessory structure to the principal structure;

(2) The storage container shall only be placed in compliance with all regulations of the Zoning Code, including setbacks, FAR, and lot coverage restrictions;

(3) The maximum size permitted for a storage container located on property zoned for industrial or public lands use shall be 320 square feet;

(4) The maximum height of a storage container used for storage purposes shall be 10 feet measured from natural grade to the top of the container;

(5) Storage containers shall be painted a neutral, earth tone, or to match the primary building near where they are placed;

(6) Storage containers shall be used for storage only, and shall not otherwise be occupied as habitable space. Storage containers shall not be connected to sewer, water or gas service, but may be permitted to have electrical service for lighting/plug-ins; and,

(7) No signs shall be permitted to be placed on any part of a storage container.

E. **Permanent Outdoor Accessory Uses**
Permanent, outdoor accessory uses, including nurseries or garden centers, are permitted with the following conditions:

1. The accessory use is clearly incidental to the primary commercial use of the property;

2. The accessory use shall not occupy more than 10 percent of the total area of the site;

3. To accommodate the accessory use, the number of parking spaces shall not be reduced more than 10 percent below the number of spaces required by Division 10-50.80 (Parking Standards) or more than 10 percent of the spaces provided;

4. The accessory use shall be conducted only between the hours of 6:00 a.m. and 9:00 p.m. or during the established business hours of operation, whichever is shorter; and,

5. The accessory use shall not be located in improved parking stalls or areas.

10-40.60.030 Accessory Dwelling Units (ADUs)

A. **Applicability**
Accessory Dwelling Units (ADUs) or Carriage Houses (See Section 10-50.110.040 (Carriage House)), where allowed by Division 10-40.30 (Non-Transect Zones) and Division 10-40.40 (Transect Zones), are subject to the following requirements and standards.

1. **Existing Dwelling**
An ADU may only be permitted on a lot if a single-family dwelling already exists on the lot or the single-family dwelling will be constructed in conjunction with the ADU.

2. **Occupancy**
The property owner, which shall include title holders and contract purchasers, must occupy either the primary residence or the ADU as their principal residence. The residence or ADU that is not occupied by the property owner may be rented or leased for a period of no less than 30 days to unrelated persons.

3. **Movable Habitable Space**
A mobile home, recreational vehicle, or other movable habitable space that does not comply with the Building Code shall not be used as an ADU. A manufactured or modular unit placed on a permanent foundation may be used as a second unit in compliance with this Section.

4. **Not Intended for Sale**
An ADU shall not be sold separately from the primary structure.

B. **Design and Development Standards**

1. An ADU shall meet the design and development standards established in Table A (Design and Development Standards) and Table B (Building Form Standard Exceptions).

2. The maximum height of all accessory buildings and structures shall comply with Table A (Design and Development Standards), unless the zone or overlay zone has a more restrictive height limit.

Table 10-40.60.030.A: Design and Development Standards	
Size	An ADU, excluding any garage or carport area and other non-living areas such as workshops or greenhouses, shall not exceed 33% of total floor area of principal residence and ADU combined. The ADU shall be no less than 300 square feet in gross floor area and shall not exceed 600 square feet in gross floor area, except that on residential lots one acre or more in size, the area of an ADU may be increased to a maximum of 1,000 square feet. The area of ADUs that utilize alternative green construction methods that cause the exterior wall thickness to be greater than normal shall be measured based on the interior dimensions of the walls.
Building Height	Standards for the height of accessory structures and ADUs are established in Table 10-40.60.020.A (Accessory Structure Height and Location Standards).
Density	In single-family residential zones no more than one ADU per single-family residential lot may be established. In multi-family residential zones the density limit applicable to that zone shall apply.
Amenities	An ADU shall contain a kitchenette and bathroom, as well as living and sleeping space.
Number of occupants	No more than two persons shall reside in an ADU.
Architectural Compatibility	• ADU shall be designed as a subordinate structure to the primary structure on the lot in terms of its mass, size and architectural character, • ADU shall maintain the architectural design, character, style and appearance of the primary structure as a single-family dwelling. • Exterior materials, windows, doors, roof pitch, and architectural details shall be consistent and compatible between the primary residence and the ADU. • Windows facing an adjoining residential property shall be designed to protect the privacy of neighbors; alternatively, fences, or walls shall be required to provide screening in compliance with Division 10-50.50 (Fences and Screening).
Alley Orientation	When an ADU is adjacent to an alley, every effort shall be made to orient the ADU to the alley with the front access door and windows facing the alley. Parking provided off the alley shall maintain a 24-foot back-out area, inclusive of the alley.
Entrance	An entrance to an attached ADU or an ADU located within a primary residence shall be located on the side or rear of the primary residence, and shall not face a street.
Parking	Parking shall be in compliance with Division10-50.80 (Parking Standards) and the parking standards in Division 10-40.40 (Transect Zones).

Table 10-40.60.030.A: Design and Development Standards	
Utility Service	An ADU shall be connected to the utilities (except telephone and television) of the primary dwelling unit and may not have separate services.
Building Form Standards	ADUs shall meet the same building form standards as a principal building in the zone.
Home Occupations	Home occupations shall be allowed subject to Section 10-40.60.180 (Home Occupations) in either the ADU or the primary residence, but not both.

Table 10-40.60.030.B: Building Form Standard Exceptions[1]			
	Parcel/Lot Size (Min.)	**Setback (Min.)**	**Lot Coverage**
Detached	7,000 sf	In compliance with Table 10-40.60.020.A	Exempt from lot coverage requirements[1]
Attached	No minimum[1]	In compliance with the standards of the underlying zone	

End Notes

[1]ADUs in the RR Zone shall meet the requirements established in Section 10-40.30.030.C

C. **Building Placement**

In addition to the standards provided in Table A (Design and Development Standards), ADUs proposed as part of the subdivision platting and approval process may be located on the rear or interior side property line under the following conditions as illustrated in Figures A and B below.

1. The ADU is located above a garage; and,

2. Four ADUs designed and constructed together are located at the common intersection of the rear and interior side of four lots; or

3. Two ADUs designed and constructed together and with direct access to an alley are located at the common intersection of the rear and interior side of two lots.

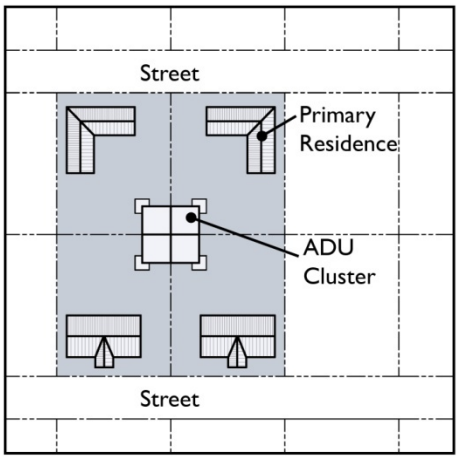

Figure A. Four ADUs located at the common intersection of the rear and interior side of four lots

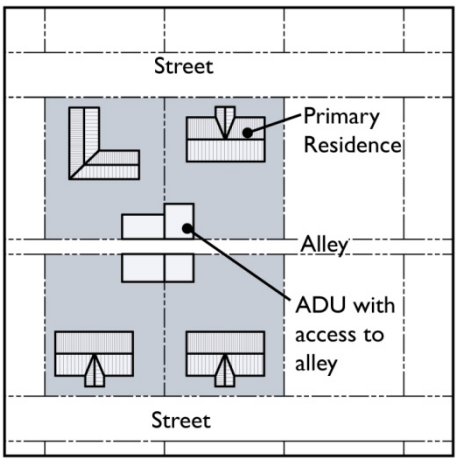

Figure B. Two ADUs with direct access to an alley

D. **Restrictive Covenant**

1. The property owner shall sign before a notary public a restrictive covenant that runs with the land on a form prepared by the City affirming that the property owner shall:

   a. Occupy either the primary residence or the ADU, or

   b. If the property owner rents or leases a property with both a primary residence and an ADU to a third party, then neither the primary residence nor the ADU shall be sub-leased.

2. The restrictive covenant shall be submitted to the City prior to the issuance of a building permit for the ADU. The City shall record the restrictive covenant after the building permit has been issued.

E. **Findings for Approval of ADUs**
An application for approval of an ADU shall be based on the following findings:

1. The exterior design of the ADU is compatible with the primary residence and does not dominate it or surrounding properties. This has been achieved through use of compatible and complimentary architectural building forms, construction materials, colors, landscaping, and other methods that conform to acceptable construction practices.

2. The exterior design of the ADU is in suitable proportion with and maintains the scale of the neighborhood.

3. The ADU does not result in excessive noise, traffic or parking congestion.

4. The site plan provides open space and landscaping that is useful for both the ADU and the primary residence. Open space and landscaping provides for privacy and screening of adjacent properties.

5. The location and design of the ADU maintains a compatible relationship to adjacent properties and does not significantly impact the privacy, light, air, solar access, or parking of adjacent properties.

6. Major access stairs, decks, entry doors and major windows on one-half and two story structures face the primary residence to the maximum extent it is feasible, or the rear alley, if applicable. Windows that face neighboring side or rear setbacks are installed so the bottom of the window is a minimum of six feet above the floor.

7. Buildings, structures, and other features of the site plan, such as walkways and driveways, are oriented and located to maintain natural and historic resources to the maximum extent feasible and to minimize alteration of natural landforms.

10-40.60.040 Accessory Wind Energy Systems

A. **Purpose**
The purpose of this Section is to accommodate Accessory Wind Energy Systems (AWES) in appropriate locations within the City while minimizing any adverse visual, safety and environmental impacts. Standards for horizontal and vertical wind turbines are provided. In addition, a permitting process for AWES is established to ensure compliance with the provisions of the requirements and standards of this Section.

B. **Location and Siting Requirements**

1. AWES may be located within all zones subject to the location and siting standards provided in Table A (Location and Siting Standards for Accessory Wind Energy Systems).

2. AWES turbines can also be placed on light poles within parking and street areas (see Table A (Location and Siting Standards for Accessory Wind Energy Systems)).

Table 10-40.60.040.A: Location and Siting Standards for Accessory Wind Energy Systems			
	All Commercial, Industrial and Public Lands Zones		All Residential Zones
Min. Lot Area	Min. 0.5 acre		Min. 1 acre
Number of AWES	**Lot Area**	**No. of AWES**	1 per Lot or Parcel
More than 45' in height	<0.5 acre	1	
	0.5 - 1 acre	2	
	> 1 acre	1 per additional acre	
Less than 45' in height mounted on light poles	Unlimited		
Maximum Height[1]			
Tower-mounted AWES	90'		45'
Vertical AWES	Height limitations for the underlying zone		Height limitation for the underlying zone
Augmented AWES			
Small DC AWES			

End Notes

[1]The height of an accessory wind energy system shall be measured from pre-existing natural grade to the center of the turbine hub.

3. **Setback Requirements**

   a. Tower-mounted accessory wind energy systems shall be set back a distance equal to 110 percent of the total height from any overhead public utility lines and any residential zone.

   b. No portion of any accessory wind energy system, including the rotor, shall project beyond the property line on which the system is located.

   c. Tower-mounted accessory wind energy systems greater than 45 feet in height shall not be located any closer than 150 feet from the right-of-way lines of the following streets and highways within Flagstaff City limits:

      (1) Interstate 40;

      (2) Interstate 17;

      (3) US Highway 89N;

      (4) US Highway 180/Fort Valley Road;

(5) Route 66;

(6) Milton Road;

(7) Switzer Canyon Drive;

(8) Cedar Avenue from Turquoise Drive to West Street; and,

(9) Lake Mary Road.

d. In all other non-residential zones, tower-mounted accessory wind energy systems greater than 45 feet in height shall be located a minimum of 20 feet behind the front setback line or the façade of an existing or proposed building, whichever is greater.

e. All accessory wind energy systems shall not be located within access or utility easements or within any buffer or setback area required by the underlying zone.

f. Accessory wind energy systems collocated on a light pole (for example, a parking lot light pole) that are 45 feet in height or less may be located in the setback area described in Subsection e above, but may not be located within any buffer yard or setback area as required by the underlying zone.

C. **Performance Standards and Design Requirements**

1. Accessory wind energy systems shall conform to applicable industry standards, including the *American National Standards Institute* and the *American Wind Energy Association's SWCC (Small Wind Certification Council)* and/or *International Electrical Code* (IEC*) 61400-2*.

2. All components of an accessory wind energy system (such as the tower, blades, wind turbine, etc.) shall be painted a matte or non-reflective color from the manufacturer to blend with the sky. The tower, blades and wind turbine shall be painted the same color, and may not be repainted except for maintenance purposes. The appearance of the turbines, towers and all other related components shall be maintained throughout the life of the accessory wind energy system facility in compliance with required operational maintenance standards as recommended by the manufacturer.

3. Permanent or temporary signs and logos are prohibited on any component of an accessory wind energy system, except as follows:

a. Manufacturer's or installer's identification on the turbine or tower; and

b. Appropriate warning signs and placards.

4. An accessory wind energy system shall not be illuminated unless required by a state or federal agency.

5. Electrical collection system conduit shall be placed underground within the interior of each parcel, except that the collection system may be placed overhead near substations or points of connection to the electric grid.

6. Accessory wind energy systems shall be designed, installed, and operated so that noise generated by the system shall not exceed 50 dBA measured from the nearest property line, except during short term events such as utility outages and severe wind storms.

7. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 10 feet above the ground.

8. No moving portions of the turbine shall be located any closer than 25 feet above the adjacent finished grade.

9. Accessory wind energy systems shall only be mounted on monopole towers, and web-truss or guy-wired systems are not permitted within the City limits.

10. Except as provided in Subsections F and G below, accessory wind energy systems shall not be mounted or erected on a building.

11. All electrical connections and wiring shall be located within the tower supporting the turbine and protected from accidental human contact or inside electrical conduit in compliance with *National Electrical Code (NEC)* standards.

D. **Approvals Required**

1. No accessory wind energy system shall be erected, constructed, installed or modified without first obtaining a Building Permit.

2. All accessory wind energy systems shall comply with all applicable sections of the Building Code.

3. The following additional information shall be provided on the site plan or on additional plans and drawings as necessary to assist in the review of the Building Permit application:

   a. A site plan that shows the location of existing and proposed structures, maintenance drop zone for working on the wind turbine without crossing property lines, any easements on the property, setbacks and the location of the proposed accessory wind energy system;

b. A cross-section of the property showing the height of the accessory wind energy system structure relative to the nearest existing and proposed buildings;

c. Manufacturer's specifications on size, color and recommendations for installation;

d. Structural calculations and plans for the tower and its foundation stamped by an engineer licensed within the state of Arizona; and

e. For all accessory wind energy systems that connect to the electric grid, a copy of an inter-connect agreement with the applicable public utility shall be submitted.

E. **Obsolescence and Removal**
If the accessory wind energy system remains inoperative or non-functional for a continuous period of 180 days, the system shall be deemed to be abandoned and shall constitute a public nuisance. Owners shall remove abandoned systems at their expense after a demolition permit has been obtained. Removal includes demolition and removal of the tower and all related above grade structures, except that any landscaping, grading or below-grade foundations may remain.

F. **Vertical or Augmented Accessory Wind Energy Systems**

1. Vertical or augmented accessory wind energy systems may be mounted or erected on the side or top of a building or structure in all zones if they are installed no higher than the height limitation for the zone within which they are located as measured from finished grade to the top of the vertical accessory wind energy system.

2. Vertical or augmented accessory wind energy systems are not subject to the siting requirements of Subsection B, except that they shall not be located within access or utility easements or within any setback area as required by the underlying zone.

3. Vertical or augmented accessory wind energy systems shall conform to applicable industry standards, including the *American National Standards Institute* and the *American Wind Energy Association's SWCC (Small Wind Certification Council)* and/or *International Electrical Code (IEC) 61400-2*.

4. Vertical or augmented accessory wind energy systems shall be painted a matte or non-reflective color from the manufacturer to blend with the sky. All components of the system shall be painted the same color, and may not be repainted except for maintenance purposes. The appearance of the turbines, towers and all other related components shall be maintained throughout the life of the system in compliance with required operational maintenance standards as recommended by the manufacturer.

5. Permanent or temporary signs and logos are prohibited on any component of a vertical or augmented accessory wind energy system, except as follows:

   a. Manufacturer's or installer's identification on the turbine or tower; and

   b. Appropriate warning signs and placards.

6. A vertical or augmented accessory wind energy system shall not be illuminated unless required by a state or federal agency.

7. Electrical collection system conduit shall be placed underground within the interior of each parcel, except that the collection system may be placed overhead near substations or points of connection to the electric grid.

8. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

9. No moving portions of the turbine shall be located any closer than eight feet above the adjacent finished grade.

10. All electrical connections and wiring shall be located within the structure supporting the turbine and protected from accidental human contact or inside electrical conduit in compliance with National Electrical Code (NEC) standards.

11. Vertical or augmented accessory wind energy systems shall follow the permitting process established in Subsection D above.

G. **Small DC Accessory Wind Energy Systems**

1. Small DC accessory wind energy systems (i.e. 200 to 1,000 watts) may be mounted or erected on a building or structure in all zones if they are installed no higher than the height limitation for the zone within which they are located as measured from finished grade to the top of the small DC accessory wind energy system.

2. Small DC accessory wind energy systems are not subject to the siting requirements of Subsection B above, except that they shall not be located within access or utility easements or within any setback area as required by the underlying zone.

3. Small DC accessory wind energy systems shall conform to applicable industry standards, including the *American National Standards Institute* and the *American Wind Energy Association's SWCC (Small Wind Certification Council*) and/or *International Electrical Code (IEC) 61400-2*.

4. Small DC accessory wind energy systems shall be painted a matte or non-reflective color from the manufacturer to blend with the sky. All components of the system shall be painted the same color, and may not be repainted except for maintenance purposes. The appearance of the turbines, towers and all other related components shall be maintained throughout the life of the system in compliance with required operational maintenance standards as recommended by the manufacturer.

5. Permanent or temporary signs and logos are prohibited on any component of a small DC accessory wind energy system, except as follows:

   a. Manufacturer's or installer's identification on the turbine or tower; and

   b. Appropriate warning signs and placards.

6. A small DC accessory wind energy system shall not be illuminated unless required by a state or federal agency.

7. Electrical collection system conduit shall be placed underground within the interior of each parcel, except that the collection system may be placed overhead near substations or points of connection to the electric grid.

8. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

9. No moving portions of the turbine shall be located any closer than eight feet above the adjacent finished grade.

10. All electrical connections and wiring shall be located within the structure supporting the turbine and protected from accidental human contact or inside electrical conduit in compliance with National Electrical Code (NEC) standards.

11. Small DC accessory wind energy systems are exempt from Building Permit review, except that an electrical permit shall be obtained prior to installation.

10-40.60.050 Adult Entertainment

A. **Purpose**
The City recognizes that there are some uses which, because of their nature, are recognized as having serious adverse secondary effects, particularly when such uses are concentrated, and impact the use and enjoyment of adjacent areas and increase law enforcement problems. Special regulation of these uses is necessary to insure that these adverse secondary effects will not contribute to blighting or downgrading of surrounding neighborhoods,

endanger public safety, or decrease the value of surrounding properties. The purpose of these regulations is to promote the health, safety and general welfare of the City by preventing a concentration or clustering of these uses in any one area of the City and to restrict their proximity to residential areas, schools, religious institutions, parks and other public facilities.

It is not the intent of this Zoning Code to restrict access by adults to sexually-oriented materials protected by the First Amendment, suppress any speech activities protected by the First Amendment, or deny access by the distributors and exhibitors of sexually-oriented entertainment to their market. The provisions propose content-neutral regulations that address the negative secondary impacts of adult retail uses and entertainment establishments and prevent the negative economic and aesthetic impacts upon neighboring properties and the community as a whole. Further, it is not the intent of this Zoning Code to permit any use or act, which is otherwise prohibited or made punishable by law.

B. **Legislative Findings Regarding the Secondary Effects of Adult-Oriented Business**

Based upon the legislative findings and evidence provided to the State of Arizona as part of A.R.S. § 13-1422; the evidence of the adverse secondary effects of adult-oriented businesses presented in hearings and in reports made available to the Arizona State Legislature; the evidence of adverse secondary effects of adult-oriented businesses presented to the City; and on the findings discussed in legal cases, including *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *PAP's A.M. v. City of Erie*, 529 U.S. 277 (2002), *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *California v. Larue*, 409 U.S. 109 (1972), *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir.2005); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Center For Fair Public Policy v. Maricopa County*, 336 F.3d 1153 (9th Cir. 2003), the City finds, consistent with the findings of the Arizona State Legislature, that:

1. Adult-oriented businesses, as a category of commercial land uses, are associated with a wide variety of adverse secondary effects, including negative impacts on surrounding properties, personal and property crimes, illicit drug use and trafficking, lewdness, prostitution, potential spread of disease, and sexual assault.

2. Adult-oriented businesses should be separated from the sensitive land uses that are identified in Subsection C.1 to minimize the impact of their secondary effects on these uses and should be separated from other adult-oriented businesses to insure that these adverse secondary effects will not contribute to the blighting or downgrading of the existing surrounding neighborhoods, endanger public safety or decrease the value of surrounding properties.

3. There is a substantial government interest in preventing each of the forgoing negative secondary effects. This substantial government interest

exists independent of any comparative analysis between adult-oriented businesses and non-adult-oriented businesses.

4. The evidentiary record before the City establishes a reasonable basis to show that this regulation has the purpose and effect of suppressing secondary effects related to adult-oriented businesses while leaving the quantity and accessibility of speech substantially intact. The City finds that a substantial interest and sufficient evidence exists to regulate adult-oriented businesses independent of any comparative rationale or comparative analysis involving the secondary effects of adult-oriented businesses. The City further finds that sufficient evidence exists in the record that the secondary effects associated with adult-oriented businesses will be reduced by these regulations.

C. **Location Requirements for Adult-Oriented Businesses**

1. Adult-oriented businesses located within the zones established in Division 10-40.40 (Transect Zones) and Division 10-40.30 (Non-transect Zones) shall be subject to the following location requirements:

   a. No adult-oriented business shall be operated or maintained within 500 feet of another adult-oriented business; and,

   b. No adult-oriented business shall be operated or maintained within 750 feet of a boundary of a residential zone; the property line of a lot devoted to a residential use in any zone; a child care facility; a private, public, or charter school; a preschool, nursery, kindergarten, or similar use; a public playground; a public or private recreational facility; a religious institution; a library; a public park; a public or private community building; a teen dance center; an amusement park; or a game center.

2. For the purpose of Subsection 1 above, the distance limitations shall be measured as the shortest line between the property lines of the relevant properties involved. This measurement shall exclude any public right-of-way that is adjacent and connected to the recorded lot lines of the relevant properties involved in the measurement.

3. Any adult-oriented business that fails to comply with this Section but which was lawfully operating before February 5, 2008, shall not be deemed to be in violation of this Section. However, such business will not be permitted to be increased, enlarged, extended, or altered unless the changes bring the business into compliance with this Section. An adult-oriented business lawfully operating in conformity with this Section does not violate this Section if another location-restricted use listed in Subsection 1.b above subsequently locates within 750 feet of the existing and operating adult-oriented business. An adult-oriented business lawfully operating is not rendered in violation of these provisions by the subsequent rezoning of land to a residential zone.

D. **Miscellaneous Provisions for Adult-Oriented Businesses**

1. Each of the provisions of this Section shall be severable, and a judicial determination that any such provision is invalid on federal or state constitutional grounds, or otherwise, shall not affect the validity of:

   a. Any other provisions; or

   b. Any determination by the City insofar as it is based on any provision not determined to be invalid.

2. These provisions shall not be construed as permitting any use or act that is otherwise prohibited or made punishable by law.

3. The maintenance of two or more adult-oriented businesses in a single building that are not at least 51 percent owned by the same entity shall be treated as two separate adult-oriented businesses for purposes of applying the location provisions of Subsection C.1.

4. All adult-oriented businesses shall meet the location criteria prescribed in this Section. The Board of Adjustment shall not have the jurisdiction to grant Variances from the location standards.

E. **Penalties for Violation of this Section**

1. A violation of Subsection C is a Class 1 misdemeanor. Each day of violation constitutes a separate offense.

2. If there is reason to believe that a violation of this Section is being committed within the City, the City may, or a citizen of this City who resides in the City in the citizen's own name may, maintain an action to abate and prevent the violation and to enjoin perpetually any person who is committing the violation and the owner, lessee or agent of the building or place in or on which the violation is occurring from directly or indirectly committing or permitting the violation.

10-40.60.060 Airport/Landing Strips, Heliport, or Helistops

A. As a condition of granting a Conditional Use Permit, the Planning Commission may require additional buffering in the form of berms for airports, landing strips, heliports, and helistops.

B. Sites for airports, landing strips, heliports, and helistops shall be sufficient in size and otherwise adequate to meet the standards of the Federal Aviation Agency, Department of Transportation, for the class of use proposed, in compliance with their published Rules and Regulations.

C. An Overlay Zone similar to that established for the City's Pulliam Municipal Airport shall be established for any new airports or landing strips proposed

within the City to control conflicts between land uses and noise generated by aircraft and to protect the public health, safety, and welfare from adverse impacts associated with excessive noise.

D. No planned approach areas shall be permitted over existing residential areas.

E. Any proposed runway or landing strip shall be situated so that any structures, high voltage power lines, towers, chimneys, and natural obstructions within the approach zones shall comply with regulations for height restrictions in airport approach zones of the Federal Aviation Agency, Division of Aeronautics, or a municipal or other airport authority qualified by law to establish hazard zoning regulations.

F. There shall be sufficient distance between the end of each usable landing strip and the Airport boundary to satisfy the requirements of the Federal Aviation Agency. If air rights or easements have been acquired from the owners of abutting properties in which approach zones fall, proof of these air rights or easements shall be submitted with the application.

G. Parking shall be in compliance with Section 10-50.80 (Parking Standards).

H. Any building, hangar or other structure shall be set back at least 100 feet from any street or lot line.

I. All repair of aircraft and machinery shall be done inside hangars.

10-40.60.070 Animal Keeping

Standards for the keeping of animals, including but not limited to, bee keeping, domestic animals, hoofed animals and fowl, are provided in City Code Title 7 (Health and Sanitation).

10-40.60.080 Automobile, Go-kart, and Miniature Automobile Racing

Automobile, go-kart, miniature automobile racing, and associated driving tracks track shall be at least 500 feet from any residential zone unless enclosed by a solid fence or wall at least six feet high, in which case the track must be at least 200 feet from a residential zone.

10-40.60.090 Automobile Service Station and Convenience Store

An automobile service station shall store all vehicle parts within a completely enclosed building.

10-40.60.100 Automobile/Vehicle Repair Garage - Major/Minor

A. All storage of vehicles awaiting needed parts or repair shall be within the building or within a compound yard enclosed by a six-foot high solid fence or wall, except for driveway openings.

B. An automobile service station shall store all vehicle parts within a completely enclosed building.

10-40.60.110 Bed and Breakfasts

A bed and breakfast may only provide commercial lodging for guests in up to four bedrooms within a single-family residence.

10-40.60.120 Co-housing

A. Co-housing is a permitted use within those housing types that are already allowed with the zone in compliance with Division 10-50.110 (Building Types) or as a planned residential development (refer to Section 10-40.60.270 (Planned Residential Development)).

B. Co-housing does not include individual rooms (Single Room Occupancy (SROs)) except in those zones where SROs are permitted under boarding and rooming facilities in compliance with Divisions 10-40.30 (Non-Transect Zones) and 10-40.40 (Transect Zones).

C. Dwelling units in co-housing developments shall not have individual setbacks or lot lines.

D. Parking may be clustered in one area and not located at individual units in compliance with Division 10-50.80 (Parking Standards).

E. Home occupations are allowed in a co-housing development based on the underlying zone, in compliance with Divisions 10-40.30 (Non-Transect Zones) and 10-40.40 (Transect Zones).

F. Required open space (including requirements of open space outside of a building envelope) may be combined as shared open space.

G. For new housing, co-housing may be clustered on smaller lots (footprints) without changing the underlying density.

H. The shared house components of the co-housing development may be the largest structure in the development. The shared housing components may also be identified based on the siting relationship to the rest of the development.

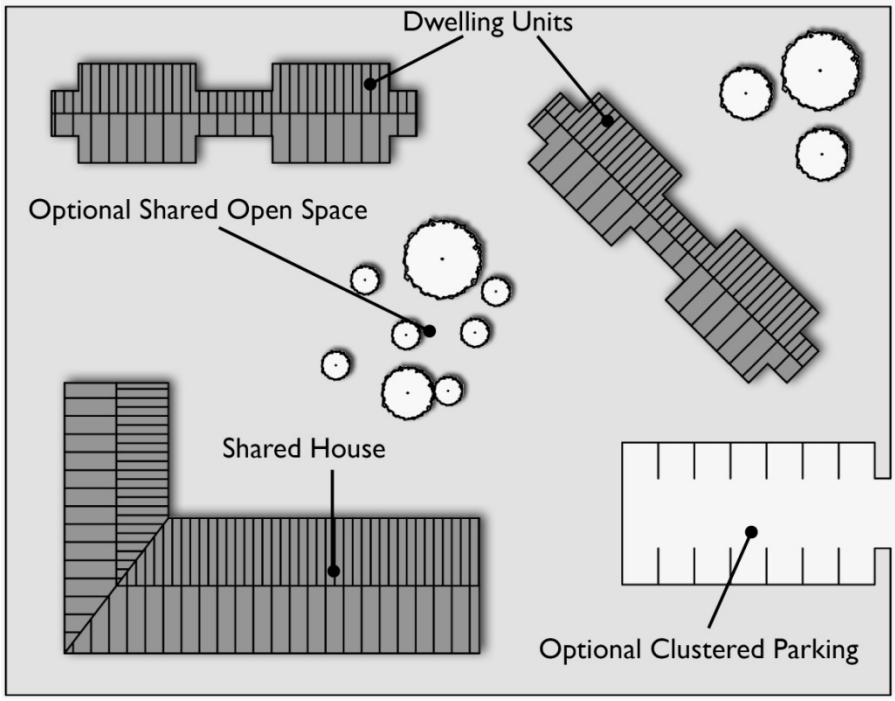

Figure A. Concept Co-Housing Development

10-40.60.130 Commercial Campground

A. **General**
A commercial campground includes facilities that accommodate travel trailers, motor homes, boats, or other recreational vehicles in addition to non-vehicle camping areas.

B. **Location**
Campgrounds shall be located in permitted zones on property having direct access to an arterial street or highway as indicated by the General Plan.

C. **Principal Uses**

1. **Travel Trailer Facilities**
A minimum of one acre shall be established for parking travel trailers.

2. **Campgrounds**
Campgrounds and freestanding tent sites shall be limited to 15 percent of the commercial campground.

D. **Accessory Uses**

1. Recreational facilities, laundry buildings, service retail store, manager's office, storage buildings, sanitary facilities, and fences shall be constructed in compliance with all the provisions of this Section and all other applicable City regulations.

2. One manufactured home or single-family dwelling may be located in the park subject to the approval of a Conditional Use Permit.

E. **Development and Design Requirements**

1. A maximum density of 15 units per acre.

2. Recreation area or common space requirements shall be at a ratio of 100 square feet per unit site.

3. No direct access to an individual site shall be permitted from a public street.

4. All public utilities shall be placed underground.

5. Interior landscaping of the park shall require at least one tree per lot, existing, or if planted the tree shall be at least a 15 gallon container in size.

F. **Individual travel trailer or recreational vehicle sites development standards:**

1. Minimum width - 25 feet.

2. Minimum depth - 45 feet.

G. **Tent Sites**
Campground areas of any travel trailer park shall provide a minimum of 500 square feet for each tent site. A 10-foot separation shall be maintained between tents.

H. **Sanitary Garbage Pickup**
In every commercial campground there shall be provided at least one sanitary garbage pickup area on the site. The garbage pickup area shall be screened from view in compliance with Division 10-50.50 (Fences and Screening).

I. **Parking**
Parking shall be in compliance with Section 10-50.80 (Parking Standards).

10-40.60.140 Community Garden

A. **General**
Community gardens shall consist of land used for the cultivation of fruits, vegetables, plants, flowers or herbs by multiple users. The land shall be served by a water supply sufficient to support the cultivation practices used on the site.

Community gardens are allowed on rooftops of structures in compliance with the City's Low Impact Development (LID) Manual, Section 4.7 (Vegetated Roofs).

B. **Community gardens are subject to the following regulations:**

1. Community gardens shall have a set of operating rules addressing the governance structure of the garden, hours of operation, maintenance, and security requirements and responsibilities. A garden coordinator shall be designated to perform the coordinating role for the management of the community gardens. The garden coordinator shall be responsible for assigning garden plots in a fair and impartial manner according to the operating rules established for that garden. The name and telephone number of the garden coordinator and a copy of the operating rules shall be kept on file with the Public Works Division and posted on site.

2. The site is designed and maintained so that water and fertilizer will not drain onto adjacent property.

3. There shall be no retail sales on site, except for produce grown on the site.

4. No building or structures shall be permitted on the site, with the exception of the following:

   a. Sheds for storage of tools limited in size to 120 square feet;

   b. Greenhouses, limited in size to 120 square feet and designed in compliance with setbacks for accessory structures, consisting of buildings made of glass, plastic or fiberglass in which plants are cultivated; and,

   c. Other small hardscape areas and amenities (such as benches, bike racks, raised/accessible planting beds, compost or waste bins, picnic tables, seasonal farm stands, fences, garden art, rain barrels, and children's play areas).

5. The combined area of all structures shall not exceed 15 percent of the community garden site area.

6. Fences shall be in compliance with Division 10-50.50 (Fences and Screening).

7. Onsite storm water systems and irrigation shall be consistent with the *Stormwater Regulations*.

C. **Maintenance Required**
Maintenance of community gardens shall be in compliance with Section 10-50.60.080 (Maintenance).

D. **Abandoned or Unproductive Community Gardens**
If a community garden is left in an unproductive state for longer than a period of 12 months, the garden coordinator or other individual(s) responsible for the community garden shall ensure that it is replaced with landscaping in compliance with Division 10-50.60 (Landscaping Standards) or seeded in accordance with Title 17 of the *Engineering Standards*.

10-40.60.150 Day Care Home and Center

A. **Day Care Home**

1. No more than one full-time person not residing on the premises may be employed in the home day care use.

2. The home day care shall be conducted in a manner that does not create adverse impacts on the residential character of the neighborhood.

3. During the hours of activity of the day care use, there is no limit on the amount of floor area devoted to this secondary use.

4. Outdoor activities and equipment associated with the home day care are permitted and must be screened by a minimum five-foot high fence or wall.

5. The hours of operation shall not create adverse impacts on adjoining properties.

B. **Day Care Center**

1. Day care center facilities shall comply with all applicable State and fire codes, including Arizona Revised Statutes.

2. Day care center on-site exterior lighting shall be consistent with Division 10-50.70 (Outdoor Lighting Standards).

3. A six-foot high solid fence or wall shall be constructed on all property lines or around the outdoor activity areas of day care centers, except in the front setback or within a traffic safety visibility area, in compliance with Division 10-50.50 (Fences and Screening).

4. All day care center facilities shall have public access.

5. The hours of operation shall not create adverse impacts on adjoining properties.

10-40.60.160 Drive-through Retail

A. **Design Objectives**
A drive-through retail facility shall only be permitted if the Director first determines that the design and operation will avoid congestion, excessive pavement, litter, and noise.

B. **Limitation on Location**
The drive-through shall only be located along the retail building's facade away from a street frontage.

C. **On-site Circulation Standards**
The drive-through retail facility shall be provided internal circulation and traffic control as follows.

1. **Drive-through Aisle Design**

   a. The entrance/exit of any drive aisle shall be a minimum of 50 feet from an intersection of public rights-of-way (measured at the closest intersecting curbs).

   b. The drive aisle shall be designed with a minimum 10-foot interior radius at curves and a minimum 10-foot width.

   c. The drive aisle shall not be located between a property line and the front of the building.

2. **Drive-through Stacking Area**
A clearly identified area shall be provided for vehicles waiting for drive-up or drive-through service that is physically separated from other on-site traffic circulation.

   a. The stacking area shall accommodate a minimum of five cars for each drive-up or drive-through window in addition to the vehicle receiving service.

   b. The stacking area shall be located at and before the service window (e.g., pharmacy, teller, etc.).

   c. Separation of the stacking area from other traffic shall be by concrete curbing or paint striping on at least one side of the lane.

   d. Stacking areas adjacent and parallel to streets or public rights-of-way shall be prohibited.

3. **Parking**
   Parking shall be in compliance with Section 10-50.80.040 (Number of Motor Vehicle Parking Spaces Required).

4. **Building Types**
   Building types shall be in compliance with suburban building types identified in Section 10-50.110 (Building Types).

5. **Walkways**
   An on-site pedestrian walkway shall not intersect a drive-through aisle.

6. **Exceptions**
   The Director may approve alternatives to the requirements of Subsections C.1 through C.3 upon finding that the alternate design will, given the characteristics of the site, be equally effective in ensuring on- and off-site pedestrian and vehicular traffic safety and minimizing traffic congestion.

7. **Visual Buffer**
   The drive-through aisle shall be screened from the sidewalk or street with landscaping or walls and berms.

10-40.60.170 Dwelling, Cluster

A. Cluster dwellings shall allow for single-family and co-housing residential uses that include, as part of the design, common open space providing for one unit per lot. A cluster dwelling can be affordable housing (Division 10-30.20 (Affordable Housing Incentives)), if the requirements of this Section are met.

B. Building form standards for cluster dwelling may be modified from those provided in Section 10-40.30.030 (Residential Zones). If there is a conflict between any standards, the provisions of this Section control over Section 10-40.30.030 (Residential Zones) for cluster dwellings.

C. Table A (Cluster Dwelling) identifies the different lot standards that apply to cluster dwelling depending upon the zone in which the cluster lot is located. Figure A illustrates the cluster dwelling standards.

Table 10-40.60.170.A: Cluster Dwelling		
Type of Decision	**RR**	**ER**
Setback		
Front	50’	30’
Side	15/40’ [1]	15/35’ [1]
Rear	50’	30’
Building Height (max)	35’	35’
Building Coverage (max)	0.10	0.22
Lot Size (min)[2]	136,680 sf	21,000 sf
Lot Width (min)	130’	100’
Common Open Space	40%	40%

End Notes

[1] The first (lower) number applies to a single setback and the second to the combined side setback.

[2] Excluding required open space areas in compliance with Subsection D below.

D. **Common Open Space for Cluster Dwellings**

1. Common open space areas shall not include any required setback.

2. The open space shall include a restricted covenant with a natural conservation easement to prohibit any future development beyond the permit activities allowed in resource areas in compliance with Division 10-50.90 (Resource Protection Standards).

3. Rights-of-way shall be excluded from the gross open space calculation.

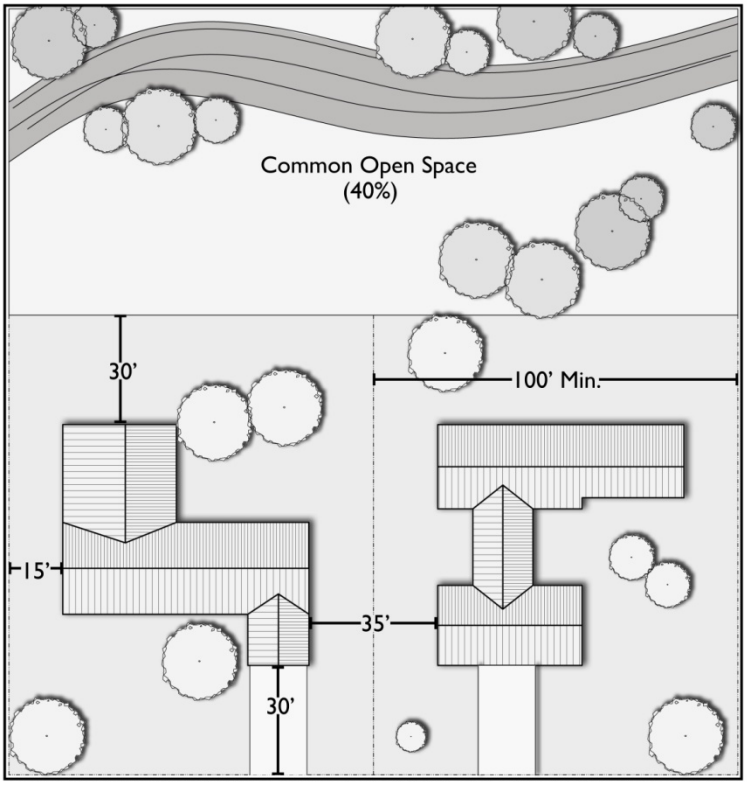

Figure A. Cluster Dwelling in the ER Zone

10-40.60.180 Home Occupations

A. The use of a dwelling for a home occupation shall be compatible with the residential character of the dwelling and the neighborhood.

B. The home occupation shall be conducted only inside the dwelling or inside an accessory building or garage.

C. The business shall only be conducted by a resident or residents of the dwelling with no more than one outside employee coming to the residence.

D. No more than 20 percent of the total floor area of the dwelling shall be used for the home occupation.

E. No stock, goods, and/or materials shall be displayed or sold at the location of the home occupation, provided that this provision shall not be interpreted to prevent pick up of orders made either through the telephone or at sales meetings outside of the dwelling in which the home occupation is located.

F. No outdoor display or storage of materials, goods, supplies, or equipment shall be permitted in connection with a home occupation.

G. Signs shall be used in compliance with Division 10-50.100 (Sign Standards).

H. No more than two home occupations shall be carried on in a single residence, provided that together they do not exceed the 20 percent area limitation in Subsection D above, or violate any other conditions specified in this Section.

I. The home occupation shall not be conducted in such a manner or advertised in such a way as to generate more pedestrian or vehicular traffic than typical for the zone within which it is located.

J. A home occupation shall not utilize flammable liquids or hazardous materials in quantities not customary to a residential use, in compliance with the adopted City Fire Code and Building Code.

K. The home occupation shall not create any radio, television, computer, or power line interference, or noise audible beyond the boundaries of the site.

L. No more than one motor vehicle, or vehicle-trailer combination, not exceeding a gross vehicle weight rating (GVWR) of 14,000 pounds shall be stored at a residence and/or used in connection with a home occupation.

M. A home occupation requires the issuance of a Home Occupation Permit in compliance with Section 10-20.40.070 (Home Occupation Permit) prior to commencement of the home occupation.

N. Any change in use of a home occupation, or if the applicant/permit holder of a home occupation no longer resides in the home where the home occupation permit was originally issued, will result in the automatic termination of the home occupation. A new owner of a home occupation or a change in use of a previously approved home occupation will require the issuance of a new Home Occupation Permit and a new Privilege License from the City prior to commencement of the home occupation.

10-40.60.190 Homeless Shelter

Homeless shelters, which include emergency shelters, short term housing, and transitional housing, shall meet the following development and performance standards:

A. **Require Good Neighbor Meetings and a Good Neighbor Agreement (Management Plan)**
Before commencing the use of a property as a homeless shelter, the owner or operator of the shelter shall hold a good neighbor meeting with residents and property owners within 300 feet of the property. The intent of the meeting is to ensure that residents and owners of neighboring properties are informed of the effects upon neighboring properties of homeless shelters, and shelter owners and operators are educated about ways to mitigate, reduce, or eliminate potential impacts upon neighboring properties. Owners and operators shall implement a Good Neighbor Agreement (Management Plan) when establishing a shelter. The Management Plan must be solidified as an agreement with neighboring properties and the shelter in order to detail agreed upon ways to mitigate, reduce or eliminate potential impacts upon neighboring properties.

B. A Management Plan for a homeless shelter may be waived only when the City Manager waives the requirements that the applicant organizes, hosts, and participates in a Good Neighbor meeting upon finding that the needs of the facility's clients for anonymity and a safe and secure environment would be compromised by such a meeting.

C. On-site management and on-site security shall be provided during hours when the homeless shelter is in operation.

D. Adequate external lighting shall be provided for security purposes, and shall be installed in compliance with Division 10-50.70 (Outdoor Lighting Standards).

E. The development may provide one or more of the following specific common facilities for the exclusive use of the residents and staff:

1. Central cooking and dining room(s).

2. Recreation room.

3. Counseling center.

4. Day care facilities for children.

5. Other support services.

F. Parking shall be in compliance with Division 10-50.80 (Parking Standards), and outdoor facilities shall be designed to provide security for residents, visitors, employees and the surrounding area.

G. The agency or organization operating the shelter shall comply with the following requirements:

1. Staff and services shall be provided to assist residents in obtaining permanent shelter and income.

2. The provider shall have a written management plan including, as applicable, provisions for staff training, neighborhood outreach, security, screening of residents to insure compatibility with services provided at

the facility, and training, counseling, and treatment programs for residents.

H. The facility shall maintain good standing with City and/or State licenses for the owner(s), operator(s), and/or staff on the proposed facility.

I. In residential zones, the maximum number of residents of the facility shall not exceed six persons for each 1,600 square feet of lot area on the site; with the exception of those homeless shelters developed in an individual dwelling unit format, in which case the underlying zone's maximum unit density standard shall apply.

10-40.60.200 Live/Work

A. **Purpose**
This Section provides standards for the development of live/work units and for the reuse of existing residential, commercial, and industrial structures to accommodate live/work opportunities.

1. **Live/work - Residential Zones**
A live/work unit in residential zones shall function predominantly as living space with limited work facilities. The standards of this Section do not apply to mixed-use developments, which are instead subject to Section 10-40.60.250 (Mixed Use).

2. **Live/work - Commercial and Industrial Zones**
A live/work unit shall function predominantly as work space with limited living facilities. The standards of this Section do not apply to mixed-use developments, which are instead subject to Section 10-40.60.250 (Mixed Use).

B. **Limitations on Use**
The nonresidential component of a live/work development shall only be a use allowed within the applicable zone. A live/work unit shall not be established or used in conjunction with any of the following activities:

1. Adult-oriented businesses;

2. Vehicle maintenance or repair (e.g., body or mechanical work, including boats and recreational vehicles), vehicle detailing and painting, upholstery, etc.);

3. Storage of flammable liquids or hazardous materials beyond that normally associated with a residential use;

4. Welding, machining, or any open flame work;

5. Medical Marijuana dispensary; and

6. Any other activity or use as determined by the Director not to be compatible with residential activities and/or to have the possibility of affecting the health or safety of live/work unit residents because of the potential for the use to create dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or would be hazardous because of materials, processes, products, or wastes.

C. **Residential Density**
Live/work units shall not exceed the density in the underlying zone, except for Planned Residential Development (10-40.60.270).

D. **Occupancy Requirement**
The residential space within a live/work unit shall be occupied by at least one individual employed in the business conducted within the live/work unit.

E. **Design Standards**

1. **Floor Area Requirements**

a. **Floor Area Requirements - Residential Zones**
The floor area of the living space shall be at least 50 percent of the total floor area. All floor area other than that reserved for work space shall be reserved and regularly used for living space.

b. **Floor Area Requirements - Commercial and Industrial Zones**
The floor area of the working space shall be at least 50 percent of the total floor area. All floor area other than that reserved for living space shall be reserved and regularly used for work space.

2. **Separation and Access**
Access to each live/work unit shall be provided from a public street or common access areas, corridors, or halls. The access to each unit shall be clearly separate from other live/work units or other uses within the structure.

3. **Facilities for Commercial or Industrial Activities, Location**
A live/work unit shall be designed to accommodate commercial or light industrial uses as evidenced by the provision of flooring, interior storage, ventilation, and other physical improvements of the type commonly found in exclusively commercial or light industrial facilities used for the same work activity.

a. **Location - Residential Zones**
Non-residential space may be incorporated into the ground floor or upper floors of a live/work unit in compliance with Subsection E.1.a.

b. **Location - Commercial and Industrial Zones**
Non-residential space shall be incorporated into the ground floor of a

live/work unit; the upper floors shall only be used for residential space.

4. **Integration of Living and Working Space**
Areas within a live/work unit that are designated as living space shall be an integral part of the live/work unit. The living space of a live/work unit should be accessed by means of an interior connection from the work space, but may have exterior access if designed in compliance with the Building Code.

5. **Mixed Occupancy Structures**
If a structure contains mixed occupancies of live/work units and other nonresidential uses, occupancies other than live/work shall meet all applicable requirements for those uses, and proper occupancy separations shall be provided between the live/work units and other occupancies, as determined by the Building Official.

6. **Signage**
All signage for live/work units shall be in compliance with Division 10-50.100 (Sign Standards).

7. **Parking**
Parking shall be in compliance with Section 10-50.80.040 (Number of Motor Vehicle Parking Spaces Required). The Review Authority may modify parking requirements for the use of existing structures with limited parking.

8. **Landscaping**
All landscaping for live/work units shall be in compliance with Division 10-50.60 (Landscaping Standards).

F. **Operating Requirements**

1. **Sale or Rental of Portions of Unit**
No portion of a live/work unit may be separately rented or sold as a commercial or industrial space for any person not living in the premises or as a residential space for any person not working in the same unit.

2. **On-premises Sales**
On-premises sales of goods are limited to those produced within the live/work unit; provided, the retail sales activity shall be incidental to the primary production work within the unit. These provisions shall allow occasional open studio programs and gallery shows.

3. **Nonresident Employees**
Up to two persons who do not reside in the live/work unit may work in the unit, unless this employment is prohibited, expanded, or limited by a Conditional Use Permit. The employment of three or more persons who do not reside in the live/work unit may be allowed, subject to Conditional Use Permit approval, based on an additional finding that the

employment will not adversely affect parking and traffic conditions in the immediate vicinity of the unit.

4. **Client and Customer Visits**
Client and customer visits to live/work shall be compatible with adjacent commercial or industrial uses, or adjacent residentially zoned areas.

G. **Changes in Use**
No Live/Work unit shall be changed to exclusively a residential or commercial use in any building or structure unless the residential or commercial use is permitted in the zone in which the building or structure is located.

H. **Required Findings**
Where a Conditional Use Permit is required for a live/work unit, approval shall require that the review authority first make all of the following findings, in addition to meeting the requirements for Conditional Use Permit approval in Section 10-20.40.050 (Conditional Use Permits):

1. The establishment of live/work units will not conflict with nor inhibit residential, commercial, or industrial uses in the area where the development is proposed;

2. The structure containing live/work units and each live/work unit within the structure has been designed to ensure that the units will function predominantly as residential with incidental work spaces; and

3. Any changes proposed to the exterior appearance of the structure will be compatible with adjacent residential, commercial, or industrial uses.

10-40.60.210 Manufactured Homes

A. **Parking or Placement of a Manufactured Home**
A manufactured home for residential purposes may be placed only in a manufactured home park or subdivision in any zone where such park or subdivision is permitted, except as provided by this Section.

B. **Temporary Manufactured Homes and Trailers**
Temporary manufactured homes and trailers may be used under the following circumstances, and shall be limited as follows to other than residential uses:

1. As a construction office use while a new building is under construction on the same lot. If such manufactured home is used as a real estate sales office, a temporary use permit is required. See Section 10-20.40.150 (Temporary Use Permits) for temporary uses.

2. With a Temporary Use Permit, to operate a business by the owner or lessee during the time of construction of a new building on the same

commercial or industrial site. See Section 10-20.40.150 (Temporary Use Permits).

3. For Subsection B.1 and B.2 above, such manufactured homes or trailers shall be removed from the site prior to the issuance of a Certificate of Occupancy for the new building on the same lot.

C. **Manufactured Home Subdivisions**

1. Recreational facilities incidental to a manufactured home shall be permitted in manufactured home subdivisions as accessory structures.

2. No more than one manufactured home unit is permitted per lot in a subdivision.

3. The preliminary plat for a manufactured home subdivision shall include the dimensions of the buildable area within each lot.

4. Not less than 10 percent of the gross site area shall be reserved for common areas or open space. The ownership of the common area shall be transferred to a homeowners association. As an option, an applicant may request that the open space requirement be waived if an additional minimum of 10 percent of the total number of lots are provided as developable permanently affordable lots (See Section 10-30.20.040.B.6).

D. **Manufactured Home Park**

1. The minimum area of the Manufactured Home Park shall be five acres.

2. The density of manufactured home park developments shall be regulated by separation requirements and recreational requirements as set forth in these standards.

3. Maps showing location of all parking spaces, buildable areas, accessory buildings, and common buildings, and for all common open areas, shall be included with an application for approval of a manufactured home park.

4. The area in which buildings, structures, manufactured homes, single-family homes, and accessory buildings are located shall be shown on a map for each site. This area is called the buildable area. The maximum length and width of any manufactured home shall be shown on the map within each buildable area.

5. No manufactured home, structure, single-family dwelling, or accessory building may be located outside of the buildable areas indicated on the map.

6. No buildable area may be located any closer than 16 feet from another buildable area.

7. No buildable area may be closer than eight feet from property boundaries.

8. There shall be a minimum distance of eight feet between the front of the buildable area and any private street. There shall be a minimum distance of 12 feet between the side of a buildable area and a private street. A minimum distance of 25 feet shall exist between any buildable area and a public street with no access from a buildable area onto a public street.

9. **Recreation Area**

   a. Not less than 10 percent of the gross site area shall be devoted to recreational facilities and common area.

   b. Recreation areas shall generally be provided in a central location in the manufactured home park. Recreational areas can be decentralized if at least one area of at least two-thirds acre can be provided.

   c. No recreation area shall be smaller than 5,000 square feet.

   d. Recreation areas may include space for community buildings and community use facilities, such as indoor recreation areas, swimming pools, hobby and repair shops, and service buildings. When such community buildings and community use facilities are provided, for each square foot of recreational building area, the open space requirements shall be reduced by three square feet.

   e. All recreation areas shall be maintained in a dust free condition.

10. **Streets**

    a. All private streets shall be improved in accordance with the *Engineering Standards*.

    b. All manufactured home parks shall be provided with safe, convenient paved vehicular access from abutting streets to each mobile home lot.

    c. Entrances to a manufactured home park shall have two separated direct connections to public streets and shall be designed to allow free movement of traffic on such adjacent streets.

    d. Access to a manufactured home park shall not be through a residential area to reach a collector route.

11. All outdoor lighting shall comply with the provisions of Division 10-50.70 (Outdoor Lighting Standards).

12. **Standards for Manufactured Home Spaces**

    a. The limits of each manufactured home space shall be clearly marked on the ground following the dimensions and layout of the site plan for the manufactured home park.

    b. Each manufactured home space shall be improved to provide adequate support for the placement and tie down of the manufactured home.

    c. Each manufactured home space shall be provided with an outdoor living and service area. Such area shall be improved as necessary to assure reasonable privacy and comfort. The minimum area shall not be less than 300 square feet with at least a dimension of 15 feet. This area shall not be a part of the buildable area.

13. **Solid Waste Disposal System**
    Solid waste collection stands shall be provided for all waste containers. Such stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning of the area. Solid waste collection stands shall be screened in accordance with the standards provided in Division 10-50.50 (Fences and Screening).

14. **Storage Area**
    Storage areas shall be provided for the storage of boats, travel trailers, utility trailers, and extra vehicles at the ratio of 300 square feet for each four manufactured home spaces. Storage areas shall be enclosed with a chain link or comparable fence six feet in height.

15. **Travel Trailer Parking Spaces**
    A manufactured home park located on a major highway or a City arterial street may be designed such that a maximum of 20 percent of the manufactured home park accommodates travel trailers or similar recreational vehicles in accordance with the standards established in Section 10-40.60.130 (Commercial Campground).

10-40.60.220 Medical Marijuana Uses

A. **General Requirements for Medical Marijuana Uses**
The minimum requirements of this section shall apply to all medical marijuana dispensaries and to medical marijuana dispensary offsite cultivation locations.

B. In addition to any other application requirements, an applicant for any medical marijuana dispensary or medical marijuana dispensary offsite cultivation location shall provide the following:

1. A notarized authorization executed by the property owner acknowledging and consenting to the proposed use of the property as a medical marijuana dispensary or a medical marijuana dispensary offsite cultivation location, as applicable;

2. The legal name of the medical marijuana dispensary or medical marijuana dispensary offsite cultivation location;

3. If the application is for a medical marijuana dispensary offsite cultivation location, the name and location of the medical marijuana dispensary with which it is associated;

4. The name, address and birth date of each officer and board member of the nonprofit medical marijuana dispensary;

5. The name, address, birth date, and valid registry identification card number of each nonprofit medical marijuana dispensary agent;

6. A copy of the operating procedures adopted in compliance with A.R.S. § 36-2804;

7. A notarized certification that none of the nonprofit medical marijuana dispensary officers or board members has been convicted of any of the following offenses:

    a. A violent crime as defined in A.R.S. § 13.9010.03.(B) that was classified as a felony in the jurisdiction where the person was convicted; or

    b. A violation of state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted except an offense for which the sentence including any term of probation incarceration or supervised release was completed ten or more years earlier or an offense involving conduct that would be immune from arrest prosecution or penalty under A.R.S. § 36-2811 except that the conduct occurred before the effective date of that statute or was prosecuted by an authority other than the state of Arizona.

8. A notarized certification that none of the nonprofit medical marijuana dispensary officers or board members has served as an officer or board member for a medical marijuana dispensary that has had its registration certificate revoked;

9. A security plan describing details of alarm systems and exterior lighting in compliance with Division 10-50.70 (Outdoor Lighting Standards), and including a floor plan showing the location, dimensions and type of security measures demonstrating that the medical marijuana dispensary or medical marijuana dispensary offsite cultivation location will be secured, enclosed, and locked as required by law; and

10. A scale drawing depicting the property lines and the separations from the nearest property boundary of the parcel containing the medical marijuana dispensary or medical marijuana dispensary offsite cultivation location to the property boundary of the parcel containing any existing uses listed in Subsection F below. If any of the uses are located within 50 feet of the minimum separation, the drawing showing actual surveyed separations shall be prepared by a registered land surveyor.

C. A medical marijuana dispensary shall have operating hours not earlier than 8:00 a.m. and not later than 7:00 p.m.

D. A medical marijuana dispensary or medical marijuana dispensary offsite cultivation location shall:

1. Be located in a permanent building and may not be located in a semi-trailer, shipping container, or motor vehicle;

2. Not have drive through service;

3. Not emit dust, fumes, vapors, smoke, or odors into the environment;

4. Prohibit consumption of marijuana on the premises, including the parking area associated with the marijuana dispensary or medical marijuana dispensary offsite cultivation location;

5. Not have outdoor seating areas;

6. Display a current City of Flagstaff business license applicable to medical marijuana uses;

7. Include a secure storage area that can be enclosed and locked as required by law;

8. Have a single secure entrance as required by law. Additional fire exits that may be required by applicable Building Code requirements shall be provided with an alarm system to prevent unauthorized exiting; and

9. Shall dispose of medical marijuana remnants and by-products in accordance with state and local regulations.

E. Medical marijuana infusion facilities shall only be permitted within a medical marijuana dispensary or at a medical marijuana offsite cultivation location.

F. A medical marijuana dispensary or medical marijuana dispensary offsite cultivation location shall meet the following minimum separations, measured in a straight line from the boundary of the parcel containing the medical marijuana dispensary or medical marijuana dispensary offsite cultivation location to the property boundary of the parcel containing any existing uses listed below:

1. 2,000 feet from any other medical marijuana dispensary, medical marijuana dispensary offsite cultivation location, or medical marijuana infusion facility;

2. 500 feet from a licensed residential substance abuse treatment facility or other residential drug or alcohol rehabilitation facility;

3. 500 feet from a community college, university, or from any public, private, parochial, charter, dramatic, dancing, music learning center or, other similar school or educational facility that caters to children;

4. 500 feet from a daycare home or daycare center;

5. 500 feet from a public library or public park; and

6. 500 feet from a facility devoted to family recreation or entertainment.

G. A medical marijuana dispensary offsite cultivation location not associated with a medical marijuana dispensary is prohibited in Flagstaff.

H. Medical marijuana cultivation may occur within a medical marijuana dispensary.

I. **Medical Marijuana Qualifying Patient Cultivation Location**
A qualifying patient may cultivate at their place of residence within the Flagstaff City limits subject to compliance with A.R.S. § 36-2804.02, i.e. a qualifying patient may not cultivate medical marijuana at their place of residence if there is a medical marijuana dispensary located within 25 miles of the qualifying patient's home.

J. **Medical Marijuana Designated Caregiver Cultivation Location**

1. All conditions and restrictions for medical marijuana dispensary offsite cultivation locations apply except that the designated caregiver cultivation location cultivation area is limited to a total of 250 square feet maximum, including any storage areas.

2. A designated caregiver may cultivate at their residence for a single qualifying patient subject to compliance with A.R.S. § 36-2806.01.

3. More than one designated caregiver may co-locate cultivation locations as long as the total cultivation area does not exceed 250 square feet maximum, including storage areas.

10-40.60.230 Meeting Facilities, Public and Private

A. **General Requirements**

1. All buildings shall be located not less than 20 feet from side and rear lot lines.

2. Parking requirements for meeting facilities shall be in compliance with Division 10-50.80 (Parking Standards).

B. **Neighborhood Meeting Facilities**

1. Neighborhood meeting facilities include small community centers, social halls, union halls, and clubs that directly service the surrounding residential neighborhood.

2. Neighborhood meeting facilities are limited to 250 seats.

3. A Conditional Use Permit shall be required in compliance with Section 10-20.40.050 (Conditional Use Permits) to serve alcohol in a meeting facility in a residential zone.

4. Neighborhood meeting facilities in residential zones shall be built to fit in with the surrounding residential and neighborhood environment.

5. Neighborhood meeting facilities shall have access to a collector or thoroughfare street, or be able to provide access without causing heavy traffic on a local residential street.

6. No facilities shall be allowed to indicate any external evidence of any gainful activity, however incidental, nor any access to any space used for gainful activity other than from within the building.

C. **Regional Meeting Facilities**

1. Regional meeting facilities serve the entire City and, potentially the surrounding region.

2. A Conditional Use Permit shall be required in compliance with Section 10-20.40.050 (Conditional Use Permits) for regional meeting facilities with a seating capacity of 250 or more seats.

3. Regional meeting facilities with 250 seats or more shall have primary access to a collector or minor arterial street, at a minimum. Meeting facilities in existence prior to the effective date of this Zoning Code are exempt from this requirement.

4. Regional meeting facilities with more 1,000 seats shall be located on a major arterial.

10-40.60.240 Mini-Storage Warehousing

A. No sales, service, or repair activities other than the rental of storage units are permitted on the premises.

B. Maximum leasable space per tenant shall be 1,000 square feet.

C. Outdoor storage, or the storage of junk, explosives, or flammable materials, and other noxious or dangerous materials are specifically prohibited.

D. There shall be a minimum of 21 feet between warehouse buildings for driveway, parking and fire lane purposes.

E. All storage shall be within an enclosed building except that within the compound of a self-storage warehouse where operable recreational vehicles and motor vehicles may be placed in outdoor storage areas that are separated from view from adjacent streets and property in compliance with Table 10-50.60.040.B (Buffer and Screening Requirements). Outdoor recreational vehicle storage areas shall not exceed 10 percent of the gross site area.

10-40.60.250 Mixed Use

A. **Purpose**
Mixed use is encouraged in order to provide more housing options, reduce traffic congestion, provide a stronger economy in commercial areas, and encourage pedestrian trips. Mixed use also has the potential to provide increased opportunities for affordable housing. In order to accomplish these goals, higher intensities of land use are permitted for mixed-use structures than for the individual uses permitted in a zone.

B. **General**
A mixed-use development combines residential and nonresidential uses, or different types of nonresidential uses, on the same site, with the residential units typically located above the nonresidential uses (vertical mixed use). Residential units may be allowed at ground level behind street-fronting nonresidential uses (horizontal mixed use) only under the limited circumstances specified by this Section. Upper floors may also be occupied by office uses. Examples are given in Figure A.

1. Mixed-use development shall incorporate a minimum of two uses.

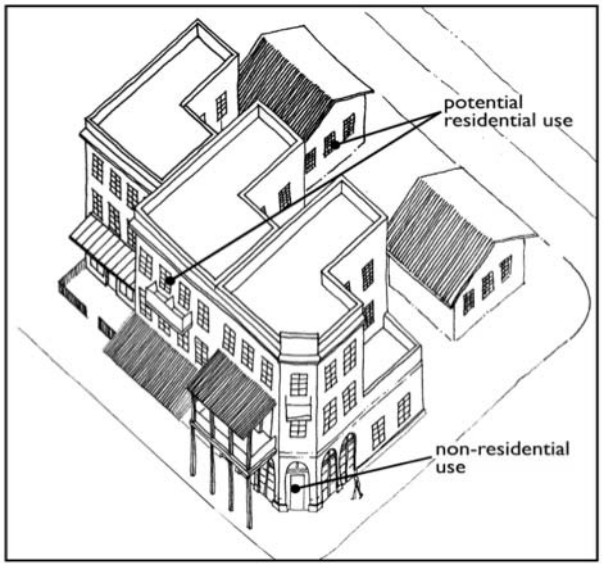

Figure A. Vertical and Horizontal Mixed-Use Development

2. Residential uses are not required to be part of the mixed-use development.

3. If any one of the uses of the mixed-use development requires the approval of a Conditional Use Permit then the development in its entirety shall be subject to the Conditional Use Permit in compliance with Section 10-20.40.050 (Conditional Use Permits).

4. Only uses allowed in the underlying zone shall be permitted in the mixed-use development.

C. **Design Considerations**
A mixed-use development shall be designed to achieve the following objectives:

1. The design shall provide for internal compatibility between the residential and non-residential uses on the site.

2. Potential glare, noise, odors, traffic and other potential nuisance conditions for residents shall be minimized to allow a compatible mix of residential and nonresidential uses on the same site.

3. The design shall take into consideration existing and potential future uses on adjacent properties and shall include specific design features to minimize potential impacts.

4. The design shall ensure that the residential units are of a residential character, and that appropriate privacy between residential units and other uses on the site is provided.

5. Site planning and building design shall provide for convenient pedestrian access from streets, courtyards, plazas, and walkways.

6. Site planning and building design shall be compatible with and enhance the adjacent and surrounding residential neighborhood in terms of building design, color, exterior materials, landscaping, lighting, roof styles, scale, and signage.

D. **Mix of Uses**
A mixed-use development may combine residential uses with any other use allowed in the applicable zone where allowed by Division 10-40.30 (Non-Transect Zones) in compliance with Subsection B.4.

E. **Site Layout and Development Design Standards**
Each proposed mixed-use development shall comply with the property development standards of the applicable zone, and the requirements of Table A (Site Layout and Development Design Standards).

Table 10-40.60.250.A: Site Layout and Development Design Standards	
Location of Units	Residential units shall not occupy ground floor street frontage space adjacent to a public or private street. The ground floor street frontage space within a mixed-use building shall be reserved for commercial uses, except for a lobby or other entry feature providing access to the residential units.
Parking	To encourage the development of residential uses in existing and new commercial areas, the use of shared parking provisions shall be incorporated into mixed-use developments in compliance with Section 10-50.80.060 (Parking Adjustments).
Loading Areas	Commercial loading areas shall be located away from residential units and shall be screened from view from the residential portion of the development to the maximum extent feasible, in compliance with Table 10-50.60.040.B (Buffer and Screening Requirements).
Refuse and Recycling Areas	Areas for the collection and storage of refuse and recyclable materials shall be located on the site in locations that are convenient for both the residential and nonresidential uses.
Open Space	A mixed-use development shall be designed to provide residential uses with common or private open space, which may be in the form of roof gardens, individual balconies, or other means as approved by the Director.

F. **Performance Standards**
Each proposed mixed-use development shall comply with the performance standards of Table B (Performance Standards).

Table 10-40.60.250.B: Performance Standards	
Lighting	Lighting for commercial uses shall be appropriately shielded to limit impacts on the residential units.
Noise	Each residential unit shall be designed and constructed to minimize nonresidential development noise levels.
Hours of Operation	A mixed-use development proposing a commercial component shall operate between the hours from 6:00 a.m. to 10:00 p.m. to ensure that the commercial uses will not negatively impact the residential uses within the development, or any adjacent residential uses.

10-40.60.260 Outdoor Commercial Recreation Structures

Outdoor structures such as bleachers, movie screens, permanent rides, and outdoor seating areas shall be a minimum of 100 feet from any setback line.

10-40.60.270 Planned Residential Development

A. **Applicability**

1. This Section provides a mechanism to allow the building types listed in Table A below (See Division 10-50.110 (Specific to Building Types) for additional standards) in the non-transect zones and for achieving gross densities on undeveloped lands where substantial natural resources are present on the site. (See Division 10-50.90 (Resource Protection Standards)).

2. Affordable housing developments (Refer to Division 10-30.20) may utilize Planned Residential Development standards in any zone where residential uses are allowed.

3. Site Plan Review and Approval (Refer to Section 10-20.40.140) is required for all building types that include two or more units, including the duplex, bungalow court, townhouse, apartment house, courtyard apartment and commercial block building types.

B. **Building Types for Planned Residential Development**
Planned Residential Developments may integrate different building types as identified in Table A (Planned Residential Development Building Type Options); however, they shall be planned as an integrated site planning process under one development or as a Traditional Neighborhood Community Plan in compliance with Division 10-30.80 (Traditional Neighborhood Community Plans). The Director may approve the integration of building types not specifically listed in Table A provided that the building type meets the intent of the zone. For example, within a MR or HR Zone or

the commercial zones, an apartment building is also an appropriate building type.

C. **Open Space Requirement**
Planned residential developments shall include a minimum of 15 percent of the gross site area as common open space that is in addition to any areas of the site with natural resources such as floodplains, slopes or forests that may be required to be protected as stipulated in Division 10-50.90 (Resource Protection Standards).

Table 10-40.60.270.A: Planned Residential Development Building Type Options

Building Type	Residential Zones					
	RR	ER	RI	RIN	MR	HR
Carriage House	✓	✓	✓	✓	✓	✓
Single-family						
Estate	✓	✓	✓			
House	✓	✓	✓	✓	✓	✓
Cottage	✓	✓	✓	✓	✓	✓
Bungalow Court	✓	✓	✓		✓	✓
Duplex						
Side-by-Side	✓	✓	✓	✓	✓	✓
Stacked	✓	✓	✓	✓	✓	✓
Front-and-Back	✓	✓	✓	✓	✓	✓
Townhouse	✓	✓	✓	✓	✓	✓
Apartment House	✓	✓	✓	✓	✓	✓
Courtyard Apartment	✓	✓	✓	✓	✓	✓
Live/Work	✓	✓	✓		✓	✓
Commercial Block					✓	✓

10-40.60.280 Quarrying Operations

A. **Plans Required**

1. A plan of the area within a one-mile radius of site shall be prepared at a scale of 1,000 feet to the inch or less, with a 10-foot contour interval or less. There shall also be a plan of the proposed site at a scale of 100 feet to the inch or less, with a two-foot contour interval or less, showing all that is listed in Table A (Plan of Area Requirements).

Table 10-40.60.280.A: Plan of Area Requirements	
Basic Data	**Proposed Usage**
Soils and geology	Final grading by contours
Groundwater data and water courses	Interior road pattern, its relocation to operation yard, and points of ingress and egress to State, county or City roads.
Vegetation, with dominant species	Estimated amount and description of aggregate/overburden removed
Wind data, with directions and percentage of time	Ultimate use and ownership of site after completion of operation

2. A Plan of Operation shall be prepared showing all that is listed in Table B (Plan of Operation):

Table 10-40.60.280.B: Plan of Operation	
Basic Data	**Disposal Facilities**
Proposed tree and berm screen locations	Average and maximum amount of cubic yards or thousands of gallons of waste to be accepted per day.
Soil embankments for noise, dust, and visual barriers, and heights of spoil mounds	Detailed description of the operation process and schedule
Method of disposition of excess water during operation	Method of protecting wastes from exposure to wind, rain, or biological influences
Location and typical schedule of blasting	Types of liners or other barriers to prevent movement through soils
Machinery; type and noise levels.	Types of leachates generated and method of managing these materials
Safety measures and monitoring of complaints.	Type and origination of the waste materials
Disposal Facilities. Information must be provided about the following:	Average number and maximum number of vehicles entering site and routes taken to get there and ability of roads and bridges to support such loadings and traffic impact on adjacent areas
	Off-site and on-site management techniques used to protect against odor, dust, litter, and animal and insect vectors

	Data on developments that have been submitted to the City for either building permits, zoning reviews, subdivisions, or land developments

3. End use plan and restoration requirements.

   a. In order to ensure that the area of extraction or disposal operation shall be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall, prior to the issuance of a Conditional Use Permit, submit to the Planning Commission an end use or open space use plan for such restoration in the form of the following:

      (1) An agreement with the City whereby the applicant contracts to restore the premises to a condition and within a time satisfactory to the City.

      (2) A physical restoration plan showing the existing and proposed contours at two feet and at National Geodetic Vertical Datum after restoration, plantings, and other special features of restoration, and the method by which such restoration is to be accomplished.

      (3) A bond, written by a licensed surety company, a certified check, letter of credit, or other financial guarantee satisfactory to the City in an amount sufficient in the opinion of the Director to secure the performance of the restoration agreement.

      (4) Such agreement and financial guarantee shall be in a form approved by the City Attorney.

         (a) If the applicant fails to fulfill the agreement, such bond, check, or other financial guarantee shall be deemed forfeited for the purpose of enabling the City to perform the restoration.

         (b) Restoration shall proceed as soon as practicable and at the order and direction of the Director. However, the owner or operator may, at his option, submit a plan for progressive restoration as the operation is being carried on. The required bond in such case may cover progressive stages of the restoration for periods of not less than two years.

         (c) At any stage during the restoration, the plan may be modified by mutual agreement between the City and the owner or operator.

         (d) Where there is any backfilling, the material used or method of fill shall not be such as to create a health or environmental hazard or which would be objectionable because of odor,

combustibility, or unsightliness. In any case, the finished condition of the restored area, except for rock faces, outcroppings, water bodies, or areas of proposed building or paving construction, shall be of sufficient depth of earth to support plant growth.

(e) Within six months after the cessation of the operation, all temporary structures (except fences) and equipment shall be removed; stockpiles, rubble heaps or other debris shall be removed or backfilled into excavation so as to leave the premises in a neat and orderly condition and covered with a minimum of four inches of topsoil with hydro seeding of native grasses.

(f) In any restoration procedure which takes place in sand or gravel pits or on other sites where the material is of a loose or friable nature, no slope shall be left which is steeper than a ratio of one and one-half horizontal to one vertical. In no case shall any slope exceed the normal angle of slippage or repose of the material involved.

(g) In addition, all restoration shall be in conformance with the *Engineering Standards* and *Stormwater Regulations*.

If there is an end use other than open space, then engineering data on the length of time needed for the restoration work to settle sufficiently to provide a stable base for the proposed end use shall be submitted.

B. **Performance Standards**

1. **Operations**
Extractive and/or disposal operations shall meet all development and performance standards of this Zoning Code and all applicable local, State and federal regulations.

2. **Setbacks**
No disposal/area, excavation, quarry wall, or storage area shall be located within 125 feet from any street right-of-way. The setbacks listed in Table C (Quarry Operation Setbacks) are required from the periphery of the subject property to any disposal area, excavation, quarry wall, or storage area on the subject property. Setback distance is dependent upon the use of adjacent property.

Table 10-40.60.280.C: Quarry Operation Setbacks	
Use of Abutting Property	**Required Setback from Lot Line**
Vacant	200’
Open Space	200’
Recreational	200’
Agricultural	150’
Residential	200’
Institutional	200’
Commercial	150’
Industrial	50’

3. **Grading**
All disposal areas and excavations shall be graded in such a way as to provide an area which is harmonious with the surrounding terrain and not dangerous to human or animal life.

   a. Excavations shall be graded and backfilled to the grades indicated by the site plan. Grading and backfilling shall be accomplished continually and as soon as practicable after excavation. Grading and backfilling may be accomplished by use of construction rubble such as concrete, asphalt, or other materials, provided such materials are composed of non-noxious, noncombustible solids.

   b. Grading and backfilling shall be accomplished in such a manner that the slope of the fill or its cover shall not exceed the normal angle of slippage of such material, or 33 degrees in angle, whichever is less. During grading and backfilling, the setback requirements in Subsection B.2 above may be reduced by one-half, so that the top of the graded slope shall not be closer than 25 feet to any lot line, 75 feet to any street line, nor within 100 feet of any natural resource protection area or residential zone boundary line.

   c. When excavations which provide for a body of water are part of the final use of the tract, the banks of the excavation shall be sloped to a minimum ratio of seven feet horizontal to one-foot vertical, beginning at least 50 feet from the edge of the water and maintained into the water to a depth of five feet.

   d. Drainage shall be provided, either natural or artificial, so that disturbed areas shall not collect nor permit stagnant water to remain.

4. **Access**
   Truck access to any disposal or excavation area shall be arranged as to minimize danger to traffic and nuisance to surrounding properties.

5. **Planting**
   Landscaping shall be done in compliance with Division 10-50.60 (Landscaping Standards).

10-40.60.290 Research and Development Uses

A. All equipment, material storage, and uses located in a research and development facility shall be performed or carried out entirely within an enclosed building that is so designed and constructed that the enclosed operations and uses do not cause or produce a nuisance to other lots or property, such as, but not limited to, vibration, sound, electromechanical disturbances, electromagnetic disturbances, radiation, air or water pollution, dust, or emission of odorous, toxic, or non-toxic matter (including steam), nor create a potential for explosion or other hazard. The Director may approve certain activities that cannot be carried out within a building provided that such activity is screened so as not to be visible from neighboring properties and streets.

B. Any use established or conducted within a research and development facility shall comply with the following standards:

   1. Smoke, gas, and odor emissions shall comply with the most current standards of the Arizona Department of Environmental Quality Air Pollution Control Rules and Regulations;

   2. The disposal of all waste materials shall comply with the Hazardous Waste Regulations of the Arizona Department of Environmental Quality; and

   3. As a prerequisite of site plan approval the property owner shall inform the Arizona Department of Environmental Quality (ADEQ) of all development proposals. Written recommendation from ADEQ shall be transmitted to the Community Development Division with the site plan application.

C. **Explosive or hazardous processes**
   Certification shall be provided by the Flagstaff Fire Department Prevention Bureau that all manufacturing storage and waste processes planned for the site shall meet safety standards.

D. **Specific to RD Zone**

1. General services, restaurants, and lodging as listed in Section 10-40.30.050.B shall be permitted only in conjunction with the establishment of a business park use as defined in Division 10-80.20 (Definition of Specialized Terms, Phrases, and Building Functions). These uses shall be limited to a maximum of 10 percent of the net building site area determined by Section 10-40.30.050.C.

2. Automobile Service Stations are permitted as a conditional use, subject to the 10 percent limitation in Subsection C.1 above, the provisions of Section 10-20.40.050 (Conditional Use Permits), and the provisions of Section 10-40.60.090 (Automobile Service Station and Convenience Store).

10-40.60.300 Secondary Single-Family Dwelling

A. **Applicability**
This section applies to existing detached residential units (except for Accessory Dwelling Units) established prior to November 5, 2002 on lots located in the MR and HR Zones not subject to the Resource Protection Overlay, and the R1N Zone. Where two existing detached residences are established on an existing lot, following the procedures established in Division 11-10.90 (Modified Subdivision Process) or Division 11-10.100 (Land Splits and Combinations) two new lots may be created subject to the standards provided below.

B. **Standards**
Two detached dwellings may exist and be maintained as principal buildings on a lot that has frontage on, and access to, a public street. If the lot is proposed to be divided, each remaining lot shall have frontage on, and/or legal access to, a public street or alley. The following standards in Table A (Secondary Single-Family Dwelling) shall also be met.

Table 10-40.60.300.A: Secondary Single-Family Dwelling	
Building Placement Requirements	
	Existing residential units shall maintain building separation requirements of applicable Sections for the R1N, MR and HR Zones, to the maximum extent feasible. Lots proposed to be divided: the new property line shall be drawn in such a manner as to divide this distance approximately equally between the two new lots, but in no case shall a new property line be drawn between existing structures that would be inconsistent with applicable City Building Code separation requirements.
Lot Requirements	
Lot Size	5,000 sf in MR and HR Zones
(min.)	If the lot is proposed to be divided: the smaller of the two remaining lots shall be at least 40% of original lot or 2,000 sf, whichever is larger

Lot Width (min.)	50' If the lot is proposed to be divided, the smaller of the two remaining lots shall have a lot width of at least 40'
Lot Depth (min.)	75' If the lot is proposed to be divided, the smaller of the two remaining lots shall have a lot depth of at least 40'
Building Form Requirements	
Lot Coverage (max.)	40% If the lot is proposed to be divided, each remaining lot shall have maximum coverage of 40%
Utilities	
	If the lot is proposed to be divided, each residential unit shall be provided with separate utility services in approved locations, subject to the provision of utility easements as necessary.

C. **Parcel Division**
If two residential units exist on a lot in conformance with Subsection A above, such lot may be divided, upon application through the Modified Subdivision Process set forth in Division 11-10.10 (Title and Authority), or Land Split procedure outlined in Division 11-20.100 (Land Splits and Combinations), into two separate lots, one for each residential unit, if the following requirements are met:

1. The lot line created between the two residential units shall be substantially perpendicular to the side lot lines if the buildings are located in the front and rear portions of the original lot, or to the front and rear lot lines if the buildings are located side by side;

2. The division complies with the Land Split requirements of Chapter 11-10 (Subdivision and Land Split Regulations), except as modified by this Section for development standards in the R1N and MR and HR Zones not subject to the Resource Protection Overlay;

3. If the proposed property division is a Land Split and the lot boundaries are set by a recorded plat and all public improvements exist along the entire frontage of the property prior to splitting, then the division may be processed as a Land Split in compliance with Division 11.10.10 (Title and Authority); and

4. If the City Engineer determines that as a result of the proposed property division public improvements are required in compliance with Division 10-30.50.070 (Minimum Requirements), then the property division shall follow the Modified Subdivision Process as defined in Division 11-10.90 (Modified Subdivision Process).

10-40.60.310 Telecommunication Facilities

A. **Purposes**
This Section is intended to accommodate the communications needs of residents and businesses in the City while protecting public health, safety, and welfare by:

1. Establishing predictable and balanced regulations that facilitate the provision of communications services;

2. Minimizing adverse visual effects of telecommunications facilities through careful design, siting, landscape screening, height limitations, innovative camouflage techniques, and protection of view shed corridors;

3. Avoiding potential damage to adjacent properties from tower failure through appropriate engineering;

4. Maximizing use of existing and future towers to minimize the number of towers needed to serve the City;

5. Locating telecommunications facilities away from residential neighborhoods and historical sites whenever feasible; and

6. Requiring compliance with the important public interest protections of this Section without taking into consideration economic considerations or cost, unless such economic considerations or costs are so extraordinary, substantial, and unusual so as to prohibit or have the effect of prohibiting the provision of telecommunications services.

B. **Permitting Applicability**

1. **Uses Permitted by Right**

a. **FM/DTV/ Low Wattage AM Broadcasting Facilities**
All applications for new FM/DTV/Low Wattage AM Broadcasting facilities shall be subject to review and approval by the Director, in compliance with the procedures provided in Division 10-20.30 (Common Procedures).

b. **Attached Telecommunications Facilities**

(1) All applications for new attached telecommunications facilities shall be subject to review and approval by the Director, in compliance with the procedures provided in Division 10-20.30 (Common Procedures).

(2) The Director may require an application for co-location to be considered by the Planning Commission at a public hearing on the basis of potential location, aesthetic or visually related impacts.

c. **Co-location Facilities**

(1) All applications for co-location of a new wireless communications facility on an existing antenna-supporting structure that has been designed and approved to accommodate multiple wireless communications facility providers shall be subject to review and approval by the Director, in compliance with the procedures provided in Division 10-20.30 (Common Procedures).

(2) The Director may require an application for co-location to be considered by the Planning Commission at a public hearing on the basis of potential location, aesthetic or visually related impacts.

d. **Stealth Telecommunication Facilities**
All applications for new stealth telecommunications facilities shall be subject to review and approval by the Director, in compliance with the procedures provided in Division 10-20.30 (Common Procedures).

2. **Uses Requiring a Conditional Use Permit**

a. **Antenna-supporting Structures**
All new antenna-supporting structures and replacement antenna-supporting structures intended for commercial use shall obtain a conditional use permit in compliance with Section 10-20.40.050 (Conditional Use Permits) prior to submittal for building permit approval and the initiation of construction.

b. **AM Broadcasting Facilities**
All applications for new AM broadcasting facilities shall obtain a conditional use permit in compliance with Section 10-20.40.050 (Conditional Use Permits) prior to submittal for building permit approval and the initiation of construction.

C. **General Requirements for Telecommunications Facilities**
The requirements set forth in this Subsection shall govern the location, construction, and operation of all telecommunications facilities governed by this Section.

1. **Building Code and Safety Standards**
Telecommunications facilities shall be maintained in compliance with applicable building and technical codes, including the EIA/TIA 222-F Standards, as published by the Electronic Industries Association and amended from time to time. Structural integrity shall be ensured through the approval of the applicable building permit.

2. **Regulatory Compliance**
All telecommunications facilities must comply with the regulations of the Federal Aviation Administration, the Federal Communications Commission, and any other agency of the state or federal government with authority to regulate telecommunications facilities.

3. **Security**
   All telecommunications facilities shall have appropriate security, as determined by the Director, including solid fencing that complies with Division 10-50.50 (Fences and Screening).

4. **Lighting**
   No artificial lighting of telecommunications facilities is permitted unless such artificial lighting is:

   a. Required by the Federal Aviation Administration, the Federal Communications Commission, or another state or federal agency of competent jurisdiction; or

   b. Necessary for security.

   c. Such lighting shall comply with the development lighting regulations in Division 10-50.70 (Outdoor Lighting Standards).

5. **Advertising**
   No advertising is permitted on telecommunications facilities. Signage in compliance with Division 10-50.100 (Sign Standards) is permitted at telecommunications facilities where personnel work permanently.

6. **Visual Impact**
   Telecommunications facilities shall be sited and constructed to preserve the preexisting character of the surrounding buildings and vegetation, and shall comply with the natural resource protection standards in Division 10-50.90 (Resource Protection Standards).

   a. All telecommunications facilities shall be painted a neutral non-reflective color, or be painted and/or textured to match adjoining structures or vegetation so as to reduce visual obtrusiveness, unless otherwise required by the Federal Aviation Administration or other competent state or federal regulatory agency. Special attention shall be paid to camouflaging, to the maximum extent feasible, all portions of a telecommunications facility.

   b. To the maximum extent feasible, telecommunications facilities shall be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging.

   c. An equipment shelter or cabinet that supports telecommunications facilities shall be concealed from public view or made compatible with the architecture of surrounding structures. Equipment shelters or cabinets shall be screened from public view by using landscaping or materials and colors consistent with the surrounding backdrop. The shelter or cabinet shall be regularly maintained.

d. Equipment shelters and screen units shall be in compliance with Division 10-50.50 (Fences and Screening) and Division 10-30.60 (Site Planning Design Standards).

7. **Landscaping**
Landscaping shall be used to mitigate the visual impact of telecommunications facilities and ancillary structures. Evergreen plant material of a minimum height of five feet shall be planted adjacent to the exterior of any wall or fence a minimum of every 10 feet on center. The Director or the Planning Commission may waive or reduce these landscaping requirements if it is determined that the landscaping is unnecessary or it is impractical to provide necessary screening.

8. **Maintenance**
The site of a telecommunications facility shall have sufficient room for maintenance vehicles and other equipment used for maintenance to maneuver on the property. Vehicles and other equipment not used in direct support of a telecommunications facility shall not be stored or parked on the site of a telecommunications facility. Unmanned sites shall provide a gravel area for parking of maintenance vehicles.

9. **Site Size and Setbacks**

a. The site of a telecommunications facility shall be of a size and shape sufficient to provide adequate landscape screening as required by Subsection 7.

b. For rooftop antennas, a 1:1.2 setback ratio shall be maintained as a fall zone (for example, a 10-foot tall antenna shall require a 12-foot setback from the edge of the building's roof).

10. **Height**

a. Height of a tower shall be measured from the natural undisturbed ground surface below the center of the base of said tower to the top of the tower itself or, if higher, to the tip of the highest antenna or piece of equipment attached thereto. In the case of building-mounted towers, the height of the tower includes the height of the portion of the building on which it is mounted.

b. A telecommunications facility located on a preferred site, as defined in Subsection E.1, shall not exceed a height of 100 feet.

c. A telecommunications facility located on a neutral site, as defined in Subsection E.2, shall not exceed a height of 75 feet.

d. A telecommunications facility located on a disfavored site, as defined in Subsection E.3, shall not exceed a height that is the greater of:

(1) 60 feet; or

(2) Five feet above the average maximum height of the foliage within 200 feet of the telecommunications facility, but in no case greater than 70 feet.

D. **Additional Requirements for Towers**
In addition to the general requirements set forth in Subsection C, towers shall be subject to the additional requirements set forth in this Section.

1. Towers shall not be sited where they will negatively affect historic districts or scenic view corridors or where they will create visual clutter.

2. Towers shall be constructed to permit future co-location, unless doing so would be technically infeasible or aesthetically undesirable, as determined by the Planning Commission. Tower owners shall negotiate in good faith with providers of telecommunications services that seek to co-locate.

3. New towers shall not be located any closer than 300 feet from the right-of-way lines of the following streets and highways within the Flagstaff City limits:

a. Interstate 40.

b. Interstate 17.

c. US Highway 89N.

d. US Highway 89A.

e. US Highway 180/Fort Valley Road.

f. Route 66.

g. Milton Road.

h. Switzer Canyon Drive.

i. North Humphreys Street.

j. Cedar Avenue from Turquoise Drive to West Street.

k. Lake Mary Road.

E. **Preferred, Neutral and Disfavored Sites**

1. **Preferred Sites**

a. **Community Structures**
Any police or fire station, library, community center, civic center, courthouse, utility structure, smokestack, water tower, bridge, clock

or bell tower, light pole, church steeple, or other similar structure is a preferred site.

b. **Co-location**
Any existing lawful wireless telecommunications facility shall be a preferred site. Any existing building where the antenna can be mounted directly to the side of the building or parapet wall is a preferred site.

c. **Industrial Zones and Public Land**
Any site zoned LI, HI or PF is a preferred site, provided that such site is not park or open space land or a school site, and provided further that such site is not a site described in Subsection E.3. School sites are considered neutral or disfavored sites, depending on their zoning, proximity to residential neighborhoods, and the extent to which such sites meet the requirements of this Section and the Required Findings listed in Section 10-20.40.050 (Conditional Use Permits).

d. **Power Line Corridors**
An existing tower structure that supports high voltage power lines in a power line corridor is a preferred site.

2. **Neutral Sites**
Any site zoned SC, CC, HC, CS, CB or RD is a neutral site, provided that such site is not a site described in Subsection E.3 below.

3. **Disfavored Sites**

a. **Residential Neighborhoods**
Any site in a zone not specified in Subsection E.1 or E.2 is a disfavored site, unless such site has a General Plan designation or current governmental use of industrial or commercial, which may reclassify the site as preferred or neutral, respectively.

b. **Designated Locales**
Any site that is within a scenic view corridor as defined in Subsection E.3.c below.

c. **Scenic Locales**
Any site along an exposed ridgeline, a public trail, public park, or other outdoor recreation area is a disfavored site, unless the telecommunications facility blends with the surrounding existing natural and man-made environment in such a manner as to be effectively unnoticeable, as determined by the Planning Commission.

F. **Applications and Procedure**

1. **Permit Requirements**
An application for a Conditional Use Permit for a telecommunications facility shall be submitted on a form prescribed by the City in compliance

with Section 10-20.30.020 (Application Process). The application shall include the information and materials specified in the checklist for applications for a telecommunications facility, together with the required fee established in Appendix 2 (Planning Fee Schedule). Additional submittal requirements are also listed below.

a. **Engineering Report**
Each application shall include a report from a structural engineer licensed in the State of Arizona documenting the following:

(1) Telecommunications facility height and design, including technical, engineering, economic, and other pertinent factors governing selection of the proposed design;

(2) Total anticipated capacity of the telecommunications facility, including, in the case of a tower, the number and types of antennas that can be accommodated;

(3) Evidence of structural integrity; and

(4) Structural failure characteristics of the telecommunications facility and demonstration that site and setbacks are adequate to contain debris.

b. **Five Year Plan and Site Inventory**
Each application shall include a five-year facilities plan and site inventory addressing the following:

(1) A description of the type of technology (cellular, PCS, radio, television, etc.) that will be provided using the telecommunication facility over the next five years, including the radio frequencies to be used for each technology and the types of consumer services (voice, video, data transmission, etc.) to be offered;

(2) A list of all of the applicant's existing telecommunications facility sites within the City and the Flagstaff Metropolitan Planning Organization Area, a list of all of the applicant's proposed telecommunications facility sites within the City and the Flagstaff Metropolitan Planning Organization Area for which the applicant has filed a Conditional Use Permit application, and a map showing location of these sites and service boundaries of other facilities operated by the applicant/provider in the area; and

(3) If the applicant does not know specific future telecommunications facility site locations but does know of the areas where the telecommunications facilities will be needed within the next five years to provide service, the applicant shall identify the areas.

c. **Additional Information for Sites that Are Not Preferred Sites**
Whenever an applicant proposes to construct a telecommunications

facility on a site that is not a preferred site, as defined in Subsection E.1, the applicant shall provide the following additional information:

(1) A map showing the area in which the proposed telecommunications facility could be sited to provide the needed coverage, and all preferred sites in that area; and

(2) A justification as to why the applicant is not proposing a preferred site, including the best efforts made to secure each of the preferred sites, why such efforts were unsuccessful, and why each of the preferred sites is not technically or legally feasible.

d. **Additional Information for Towers**

(1) The applicant must explain why existing towers and other supporting structures cannot accommodate the proposed telecommunications facility. The applicant should describe in detail its best efforts made to obtain the use of such facilities, including, where applicable, the names and phone numbers of property owners contacted, summaries of meetings held with property owners, and written documentation from property owners denying use of their property;

(2) The applicant must state whether additional antennas can be co-located on the new tower and, if not, explain why the tower is not being constructed to accommodate future co-location; and

(3) The applicant must prepare a site review plan application that meets the requirements of Section 10-20.40.140 (Site Plan Review and Approval).

2. **Technical Experts**
The Director is authorized to employ on behalf of the City an independent technical expert to review any technical material submitted under this Section. The applicant shall pay all costs of said review, including any administrative costs incurred by the City. Any proprietary information disclosed to the City or the expert hired shall remain confidential and shall not be disclosed to any third party.

3. **Legal Counsel**
The City Attorney may employ on behalf of the City legal counsel to assist in the review of an application for a Conditional Use Permit submitted. The applicant shall pay all costs of said review, including any administrative costs incurred by the City.

4. **Procedure - General**
Applications for a Conditional Use Permit for a telecommunications facility shall be subject to the general procedural requirements found in Section 10-20.40.050 (Conditional Use Permits). Any decision to deny an application for a Conditional Use Permit for a telecommunications

facility, including on appeal to the Council, shall be in writing and shall be supported by substantial evidence in the written record.

5. **Report of Director**
In connection with the report of the Director required by Section 10-20.30.020 (Application Process), the Director may require the applicant to submit additional justifications, documentation and other information in support of the showings that the applicant must make in compliance with the Section. For each applicable showing or requirement of this Section, the report shall:

   a. Review the application and the supporting documentation submitted by the applicant and any information prepared by or on behalf of the City or received by the City; and

   b. Explain how the information reviewed (or lack of information submitted) supports the recommendation to the Planning Commission required by Section 10-20.30.020 (Application Process). Failure of the applicant to submit such information as the Director may require in compliance with this Section shall be noted in the Report and may be considered by the Planning Commission.

6. **Review**
The Planning Commission shall not issue a Conditional Use Permit for a telecommunications facility, as required by Subsection B.2 above, until:

   a. The applicant has submitted an application in the form set forth in Subsection F.1;

   b. The Planning Commission has determined that the requirements for set forth in Subsection C have been met; and

   c. The Planning Commission has made the findings required under Section 10-20.30.090 (Findings Required). In addition, the following findings shall be required, where applicable:

      (1) **For Telecommunications Facilities Not on Preferred Sites**
      Applications for a Conditional Use Permit for a telecommunications facility on a site other than a preferred site, as defined in Subsection E.1, shall not be granted unless the applicant has shown that it made its best efforts to locate the telecommunications facility on a preferred site and that it is not technically or legally feasible or aesthetically desirable to locate the telecommunications facility on a preferred site.

      (2) **For Towers**
      Applications for a Conditional Use Permit for a tower shall not be granted unless the applicant has shown that:

(a) Existing towers cannot accommodate the proposed telecommunications facility;

(b) The new tower will have room to co-locate additional facilities or it is not technically or legally feasible or aesthetically desirable to construct a tower with such co-location capacity; and

(c) Construction of the tower will not disrupt existing utilities. In addition, the applicant also must meet the requirements set forth in Subsection D above.

(3) **For Telecommunications Facilities on Disfavored Sites**
Applications for a Conditional Use Permit for a telecommunications facility on a disfavored site, as defined in Subsection E.4, shall not be granted unless the applicant has shown that:

(a) It has made its best efforts to locate the telecommunications facility on a site that is not a disfavored site;

(b) It is not technically or legally feasible or it is aesthetically undesirable to locate the telecommunications facility on a site that is not a disfavored site; and

(c) Denial of the Conditional Use Permit would unreasonably discriminate among providers of functionally equivalent personal wireless services or prohibit or have the effect of prohibiting the provision of personal wireless services within the meaning of 47 U.S.C. § 332(c)(7)(B)(i).

7. **Additional Information**
The Planning Commission may require the applicant to submit additional information or provide further justification if the Planning Commission believes it is necessary or appropriate in light of the showings required by Subsection F.6, the Report submitted by the Director, the application, or the requirements of this Section.

8. **Waived Requirements for Co-location**
The Director may waive the requirements for a Conditional Use Permit for telecommunications facilities that meet all the criteria in Subsection C if the new facility or equipment is co-located on or adjoining an existing telecommunications facility.

G. **Time Limits**
The City shall process tower citing applications for co-location facilities within 90 days and all other tower applications within 150 days, in compliance with Section 332(c)(7) of the Communications Act.

H. **Removal of Telecommunications Facilities**

1. All telecommunications facilities shall be maintained in compliance with the standards contained in applicable building and technical codes, including the EIA/TIA 222-F Standards, as published by the Electronic Industries Association and amended from time to time, so as to ensure the structural integrity of such facilities.

2. If upon inspection by the Review Authority any such telecommunications facility is determined not to comply with the code standards referenced in Subsection H.1 or to constitute a danger to persons or property, then upon notice being provided to the owner of the telecommunications facility and the owner of the site of the telecommunications facility, such owners shall have 30 days to bring the telecommunications facility into compliance. The following measures will be followed if telecommunication facility remains noncompliant based on this Subsection:

   a. If such telecommunications facility is not brought into compliance within 30 days, the City may provide notice to the owners requiring the telecommunications facility to be removed and the site restored to its natural condition.

   b. If such telecommunications facility is not removed within 30 days of receipt of such notice and the site restored to its natural condition, the City may remove such telecommunications facility and place a lien upon the property for the costs of removal and restoration.

   c. Delays by the City in taking action shall not in any way waive the City's right to take action.

   d. The City may pursue all legal remedies available to it to ensure that telecommunications facilities not in compliance with code standards or which constitute a danger to persons or property are brought into compliance or removed.

   e. The time periods for repair, removal and restoration set forth in Subsection 2 may be shortened if the Review Authority determines that a telecommunications facility poses an immediate danger to persons or property.

I. **Abandoned Telecommunications Facilities**

1. Any telecommunications facility that is not operated for a continuous period of six months shall be considered abandoned, whether or not the owner or operator intends to make use of it or any part of it. The following persons have a duty to remove an abandoned telecommunications facility and restore the site to its natural condition:

   a. The owner of the abandoned telecommunications facility.

b. The former operator of the abandoned telecommunications facility.

c. The owner of the site upon which the abandoned telecommunications facility is located.

d. Any lessee or sub-lessee of the site.

e. Any telecommunications service provider that, by ceasing to utilize the telecommunications facility, caused the telecommunications facility to be abandoned.

f. Any person to whom there has been transferred or assigned any license issued by the Federal Communications Commission under which the communications facility was operated.

g. Any successor of any of the foregoing persons by asset sale or merger.

h. Any parent, subsidiary, or affiliate of any of the foregoing persons.

i. Any managing partner of any of the foregoing that is a limited partnership.

j. Any general partner of any of the foregoing that is a general partnership.

2. If such telecommunications facility is not removed and the site is not restored to its natural condition within 60 days of receipt of notice from the City notifying the owner of such abandonment, the City may remove such telecommunications facility and restore such site to its natural condition and place a lien upon the property for the costs of removal. The City also may pursue all legal remedies available to it to ensure that abandoned telecommunications facilities are removed. Delay by the City in taking action against abandoned telecommunication facilities shall not in any way waive the City's right to take action. The City may seek to have the telecommunications facility removed and the site restored to its natural condition regardless of the owner's or operator's intent to operate the telecommunications facility and regardless of any permits that may have been granted to do so.

3. A new Conditional Use Permit must be granted before an abandoned telecommunications facility is brought back into use, and the applicant must meet all of the conditions of this Section as if the abandoned telecommunications facility were a new telecommunications facility.

J. **Coordination with Federal Law**

1. A Conditional Use Permit may be granted despite noncompliance with the provisions of this Section whenever denial of Conditional Use Permit would unreasonably discriminate among providers of functionally equivalent personal wireless services or prohibit or have the effect of

prohibiting the provision of personal wireless services, within the meaning of 47 U.S.C. § 332(c)(7)(B)(i).

2. In evaluating an application for a Conditional Use Permit, no consideration shall be given to the environmental effects of radio frequency emissions to the extent that such emissions are in compliance with the regulations of the Federal Communications Commission, as provided in 47 U.S.C. § 332(c)(7)(B)(iv).

3. If any portion of this Section is found invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision of this Section, and such holding shall not affect the validity of the remaining portions of this Section.

K. **Exclusions**
The following shall be exempt from this Section:

1. Any tower and antenna under 60 feet in total height above the ground that is owned and operated by an amateur radio operator licensed by the Federal Communications Commission; and

2. Any receive-only consumer device designed for over-the-air reception of television broadcast signals, multi-channel multi-point distribution service, or direct broadcast satellite service.

10-40.60.320 Warehousing

Warehousing, where permitted, includes outdoor storage provided the entire storage yard is screened by a minimum six-foot high solid fence or wall, or chain link fencing with slats. Outdoor storage includes storage yards for recreation vehicles, boats, trailers, and contractor's storage and supply yards. Surfacing requirements are to be determined by the Director, based upon the intensity of use, and may range from pavement to a permeable, dust-free, weed-free surface (e.g. gravel). Any expansions of existing storage yards or buildings with storage yards, of 25 percent or more in area, shall also provide screening for the entire yard area.