
Article 10. Supplemental Districts & Standards

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10.01 Airport Overlay

- A. **Intent.** The intent of the Airport Overlay District is to:
1. Regulate the development of noise-sensitive land uses;
 2. Promote compatibility between the Springfield-Branson National Airport and surrounding land uses;
 3. Protect the Springfield-Branson National Airport from incompatible development; and
 4. Promote the health, safety, and general welfare of all property uses in the vicinity of the airport.
- B. **Applicability.** The standards in this section apply to the following sub-districts indicated in Figure 10-1, and overlaid onto the official zoning map as airport overlay (AO) zones.
1. AO-1. All areas with 2,000 feet of any airport runway centerline extending out 10,000 feet from both ends of any airport runway.
 2. AO-2. [Not currently used.]
 3. AO-3. All areas encompassing the airport zoned defined in the Airport Zoning Law, Chapter 305 RSMo., defined as follows:

Beginning at a point on the end of any runway and on the centerline of the runway; thence to the right a distance of 500 feet on a course perpendicular to said centerline to a point; thence to a point 2,000 feet to the right of and perpendicular to the centerline extended which point is directly opposite a point 10,000 feet from the end of the runway on the said centerline extended away from the runway; thence to a point 2,000 feet to the left of and perpendicular to the centerline extended which point is directly opposite a point 10,000 feet from the end of the runway on the said centerline extended away from the runway; thence to a point 500 feet to the left of the point of beginning and perpendicular to the said centerline; thence to the point of beginning.

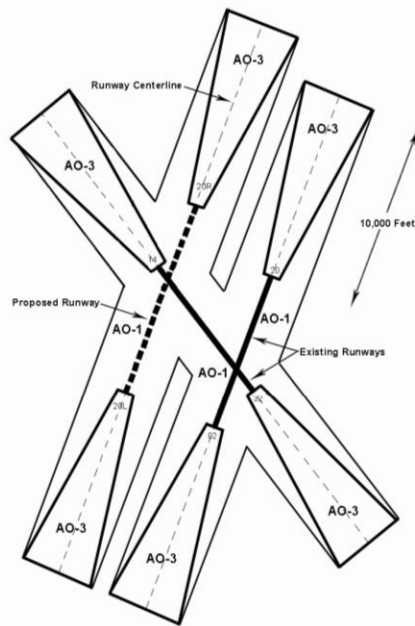


Figure 10-1 Airport Overlay Zones
AO-1 and AO-3..

4. **Split Zoned Tracts & Structures.**
 - a. Where a part of a tract of land lies within an airport overlay zoning district, the district requirements shall only apply within the part of the tract located in the district. The AO-3 district shall take precedence over the AO-1 district.
 - b. A structure which is located partly within an airport overlay zoning district and partly outside shall be considered to be entirely within an airport overlay zoning district. The AO-3 district shall take precedence over the AO-1 district.
- C. Allowed, Limited, & Prohibited Uses.** Uses in any underlying zoning district from Table 4-3, Section 4.02 shall be further restricted by the standards of the AO districts.
1. **Prohibited in AO-1.** The following uses are prohibited in the AO-1 district:
 - a. Residential use groups – all including mobile homes and manufactured housing developments.
 - b. Schools – primary/secondary and college / university.
 - c. Assembly use groups – all
 - d. Entertainment venue use group – all
 - e. Medical services use group – all
 - f. Cultural facilities.
 - g. Daycare – all
 - h. Entertainment & regulation use group – all
 2. **Limited in AO-3.** If permitted by the underlying district, the following uses shall be limited as specified in the AO-3 district
 - a. Residential uses – limited to detached houses on lots greater than 10 acres, except any lot that legally existing prior to initial adoption of the AO district shall be permitted on detached house.
 3. **Prohibited in AO-3.** The following uses are prohibited in the AO-3 district:
 - a. Lodging use group – all
 - b. Transportation – commercial parking lot.
 - c. Accessory off-street parking, whether in a structure or surface lot.
 4. **Conditional Uses.** The following uses may be permitted by a conditional use permit in the AO-1 or AO-3 zone:
 - a. Open Space – Athletic Fields or other private or common open spaces.

- b. In addition to the general procedures and criteria for conditional use permits in Section 2.04, conditional use permits shall be subject to the additional conditions and criteria in the AO districts:
- (1) No use may be closer than 1.5 miles (7,920 feet) from the ultimate end of an existing or planned runway as approved by the FAA.
 - (2) All applications shall be reviewed by the Springfield-Branson National Airport Board for potential impacts on the airport including the following factors:
 - (a) Federal Aviation Regulations (FAR Part 77)
 - (b) Publishing instrument approach and departure procedures.
 - (c) Outdoor lighting
 - (d) Radio signal or electric emissions
 - (e) Noise sensitive concerns
 - (f) Public Safety
- D. **Additional Standards.** Any development, use, or building initiated in the AO district shall be subject to the following additional standards:
1. When a subdivision plat or building permit is required, the property owner shall dedicate an aviation easement to the city over and across that property. This easement shall establish a height restriction on the use of the property and hold the public harmless from any damages caused by noise, vibration, fumes, dust, fuel, fuel particles, or other effects that may be caused by the operation of aircraft taking off, landing, or operating on or near the Springfield-Branson National Airport.
 2. No use may create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, or result in glare to pilots using the airport; impair visibility in the vicinity of the airport; create bird strike hazards, or otherwise endanger or interfere with the landing, taking off, or flight operations of aircraft utilizing the airport.
 3. No building or structure shall be constructed nor shall any landscaping growth be maintained which exceeds 50 feet in height in an airport overlay zoning district.
 4. Any permitted residential uses shall meet minimum construction standards to achieve a minimum outdoor to indoor NLR of 30 decibels.
 - (a) Customary residential construction can be expected to provide an NLR of 20 decibels, which assumes mechanical ventilation and closed windows year round. Therefore, the minimum outdoor to indoor NLR shall be ten decibels over standard construction.
 - (b) A base airport noise level of 70 Ldn is assumed until such time as a different base airport noise level is established based on completion of a noise study prepared by the Springfield-Branson National Airport or other individuals authorized by the board of such airport and filed with the office of the director of aviation of the City of Springfield, Missouri.
 - (c) The BDS Director shall not issue a building permit for any structure within the AO zones unless the plans and specifications accompanying the application have been certified by a registered professional engineer or registered professional architect in the State of Missouri as meeting the noise level reduction (NLR) standards specified in this subsection.
 - (d) The registered professional architect or engineer must certify that said plans and specifications shall reduce the noise impact from outdoor to indoor noise level, at least the minimum specified in this section, using commonly accepted engineering and architectural acoustical practices.
 - (e) This subsection shall not apply to property located within the official boundaries of the Springfield-Branson National Airport as established in the airport layout plan submitted to and on file with the Federal Aviation Administration and as amended from time to time.

10.02 Historic Designations

- A. **Intent.** The intent of this section is to:
1. Promote the designation and use of historic sites, historic landmarks, interior landmarks, and historic districts for the educational, cultural, economic, and general welfare of the public through the preservation, protection, and regulation of buildings, sites, monuments, structures, interiors, and areas of historic interest or importance within the City of Springfield;
 2. Safeguard the city's historic, aesthetic, and cultural heritage as embodied and reflected in such improvements, landscape features, and districts;
 3. Preserve and enhance the aesthetic quality of neighborhoods;
 4. Stabilize, improve, and sustain property values;
 5. Strengthen the city's economic base by the stimulation of conservation and reuse of historic structures;
 6. Insure the harmonious, orderly, and efficient growth and development of the municipality;
 7. Foster civic pride in the beauty and the noble accomplishments of the past; and
 8. Establish a visual archive of buildings, sites, monuments, structures, interiors, and areas of historic interest or importance within the City of Springfield which are slated to be removed from the landscape.
- B. **Criteria.** Review bodies shall consider one or more the following criteria for designation of a historic site, landmark, interior landmark, or district under this section.
1. Has significant character, interest, or value as part of the city, region, state or nation's history; or is associated with the life of a personality significant to the past.
 2. Is the site of a historic event with a significant effect upon the development, heritage or cultural characteristics of the city, region, state, or nation.
 3. Exemplifies the cultural, political, economic, social, or historic heritage of the community.
 4. Portrays the environment in the era of history characterized by a distinctive architectural style.
 5. Embodies those distinguishing characteristics of an architectural type or engineering specimen.
 6. Is the work of a designer or architect or contractor whose individual work has influenced the development of the city, region, state, or nation.
 7. Contains elements of design, detail, materials, or craftsmanship which represent a style unique to the past.
 8. Is a part of or related to a square, park or other distinctive area and thus should be developed and preserved.
 9. Represents an established and familiar visual feature of the neighborhood, community, or skyline, owing to its unique location or singular physical characteristics.
 10. Is part of or related to a distinctive, geographical area which should be developed or preserved according to a plan based on cultural, historic or architectural motif.
 11. Has yielded, based upon physical evidence, or is likely to yield information important to history or prehistory.
 12. In addition, the landmarks board shall consider the site, structure, object, or district in light of its integrity of:
 - a. Location,
 - b. Design,
 - c. Setting,
 - d. Materials,
 - e. Workmanship,
 - f. Feeling,
 - g. Association, and
 - h. Its suitability for preservation and reuse.
- C. **Designation.** In addition to general application procedures in section 2.01, the specific procedures in Table 10-1 apply to designations of historic properties.

Table 10-1: Designation of Historic Property

| | <i>Historic Site</i> | <i>Landmark or District</i> |
|---|---|---|
| <i>Nomination</i> | <ul style="list-style-type: none"> ▪ By resolution of LB, PC, or Cc; or ▪ By owner | <ul style="list-style-type: none"> ▪ By resolution of LB, PC, or CC; ▪ By owner; or ▪ By verified petition (district only) [1] |
| <i>Notice</i> | Certified mail to all property owners at least 15 days prior to a formal application to the Planning and Development Department. Forms supplied by city, and mailing done by city, but applicant shall supply letter, envelopes, and postage. | |
| <i>Landmarks Board Hearing and Recommendations</i> | <ul style="list-style-type: none"> ▪ Public hearing 2.01.G ▪ Action according to 2.01.H at or within 28 days of hearing ▪ Recommendations to designate forwarded to City Council (see B.1 below) ▪ Failure to recommend designation is only forwarded to City Council on applicant's initiative and within 10 days of Landmarks Board action. | |
| <i>City Council Declaration of Intent to Designate</i> | n/a | <ul style="list-style-type: none"> ▪ Considered at its next regularly scheduled meeting ▪ Action according to 2.01.H (See B.2 below for effect of decision) |
| <i>Planning & Zoning Commission Public Hearing / Recommendation</i> | n/a | <ul style="list-style-type: none"> ▪ Considered at its next regularly scheduled meeting; public hearing according to 2.01.G ▪ Action according to 2.01.H ▪ A protest may be filed according to 2.05.C |
| <i>City Council Decisions</i> | <ul style="list-style-type: none"> ▪ Considered at its next regularly scheduled meeting; public hearing according to 2.01.G. ▪ Action according to 2.01.H (see B.3 below for effect of decisions) ▪ A protest may be filed according to 2.05.C.8. | |
| <i>Notification of Designation</i> | n/a | <ul style="list-style-type: none"> ▪ Registered letter to all owners ▪ Notice to landmarks board and city departments. ▪ City clerk shall file certified notification with Greene County Recorder of Deets |

[1] A verified petition of the owners or authorized agent requires at least 30% of the owners within a proposed district as measured by the land area of the property.

1. *Landmarks Board Recommendation.* The Landmarks Board recommendation to designate property shall include at a minimum the following items
 - a. A statement that the nominated property does or does not meet the criteria for designation;
 - b. A statement of the attributes of the area or site as such attributes relate to and comply with the designation criteria;
 - c. A statement of the significant exterior architectural features of the nominated historic site or historic landmark or interior landmark or types of significant exterior architectural features of structures within a nominated historic district that should be protected;
 - d. A statement of whether or not, in the board's review, the designation is in compliance with prior actions of the city council approving plans and programs. It shall be the duty of the director of planning and development to report to the landmarks board as to the existence of such plans and programs which might have application to the property proposed for designation and further, to offer a professional opinion as to whether or not the proposed designation is in accordance with such plans and programs;
 - e. A statement of the relationship of the nominated historic site, historic landmark, interior landmark, or historic district to the ongoing effort of the landmarks board

- to identify and nominate all potential areas and structures that meet the criteria for designation;
- f. A map showing the location of the nominated historic site, historic landmark, interior landmark, or the boundaries of the nominated historic district;
 - g. A picture or pictures of the nominated historic site, historic landmark, interior landmark, or historic district;
 - h. A list of property owners of the historic site, historic landmark, interior landmark, or historic district and a statement that all owners of record have been notified of the landmarks board's consideration of the property for designation. Any correspondence - pro or con - concerning property owners' stance on designation shall also be attached; and
 - i. A recommendation that the property should or should not be listed as a historic site, historic landmark, interior landmark, or historic district.
2. ***Effect of Declaration of Intent to Designate a Landmark or District.*** The declaration by the City Council of an intent to designate a historic landmark or district shall have the following affect:
- a. No building or demolition permit shall be issued by the BDS Department for any alteration, construction, demolition, or removal of a nominated landmark or property within a nominate district until the final disposition of the nomination according to Table 10-1.
 - b. The BDS Department may approve permits necessary for the public health, safety, and according to sections C. or D.
 - c. This delay and interim limitation shall not be longer than 180 days from the declaration of intent to designate.
- This provision shall not apply to permits granted prior to the designation of a historic site or the declaration of intent to designate a historic landmark or district, and shall not apply to interior alterations
3. ***Effect of Designation.*** Upon the designation of a site, landmark or district, no alteration of property or demolition shall occur without a permit approved by the BDS Director and either:
- a. A certificate of appropriateness granted by the Landmarks Board according to subsection C.
 - b. A certificate of economic hardship granted by the Landmarks Board according to subsection D; or
 - c. The expiration of 60 days from an application for a certificate to the Landmarks Board
- This provision shall not apply to permits granted prior to the designation of a historic site or the declaration of intent to designate a historic landmark or district, and shall not apply to interior alterations
4. ***Landmark & District Designation.*** The designation of a historic district or landmark is intended to be an overlay zoning district, and shall generally follow rezoning procedures after the declaration of intent to designate by the City Council. Designations may be accompanied by additional guidelines or standards specific to the landmark or district. The regulations imposed by the district shall be in addition to those regulations of the underlying zoning district.
5. ***Rescind or Amendment of Decisions.*** Any amendment or rescinding of a historic designation may occur in the same manner as the designation.

D. **Certificate of Appropriateness.**

1. **Applicability.** A certificate of appropriateness shall be required for exterior work on any new or existing structure or site designated as a historic site, landmark, or district, including:
 - a. Construction, alteration or removal that requires a building or demolition permit.
 - b. A material change to the exterior appearance or significant exterior feature such as additions, reconstruction, or alteration, based on documentation designating the landmark or district.
 - c. Application of paint to previously unpainted brick or masonry surfaces or the application of stucco or siding.
 - d. Construction or enlargement of a driveway or parking area, or the erection of fencing.
 - e. Any public improvement which the PD Director determines would affect the landmark or historic district, whether conducted by a private party, the city, or other agency..
 - f. A material change to the interior appearance of existing structures, if a significant interior feature was listed in the nomination or designation, including additions, reconstruction or alterations.
 - g. This section shall not apply to:
 - (1) Ordinary maintenance or repair.
 - (2) Any structure or building less than 100 square feet on the premises of a landmark or in a district such as animal enclosures, gazeboes, playhouses, greenhouses, and similar accessory structures.
 - (3) Temporary structures associated with a temporary event permit, provided it is removed at the conclusion of the event.
2. **Review Procedures.** Prior to any work on a designated site, landmark or district an applicant shall consult with the PD Director to determine if a certificate of appropriateness is required,
 - a. If required an application shall be submitted to the PD Director. The PD Director may authorize the work administratively if:
 - (1) The work does not require a certificate of appropriates or otherwise does not have any affect on the designation; or
 - (2) The work is for items that the Landmarks Board designated for administrative actions as part of the designations.
 - (3) Administrative certificates of appropriateness are in addition to all other applicable permits required by the city.
 - b. Denial of an administrative certificate may be appealed to the Landmarks Board, or if the Director determines that the work is beyond the authority for an administrative certificate, the Director shall forward the application to the Landmarks Board.
 - c. The PD Director shall schedule a hearing at the next scheduled Landmarks Board meeting at least 15 days from a complete application or a determination that an action is not eligible for an administrative certificate.
 - d. Notice shall be posted according to 2.01.F.2
 - e. Landmarks Board shall review and take action according to 2.01.H. If the Landmark Board denies the application, specific reasons shall be indicated in writing to the applicant with suggestions for appropriate changes.
3. **Review Criteria.** The landmarks board shall consider the following criteria for a certificate of appropriateness:
 - a. Any design guidelines or standards that the landmarks board may establish and adopt.
 - b. For new construction, the compatibility of the building or structure with historic aspects of the surroundings. It is not the intent of this section to discourage contemporary architectural expression or to encourage the emulation of existing buildings or structures of historic or architectural interest in specific detail.

- c. The secretary of interior's standards for rehabilitation as listed below.
- (1). A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
 - (2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
 - (3) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
 - (4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
 - (5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
 - (6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
 - (7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
 - (8) Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
 - (9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
 - (10) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
- d. For demolitions:
- (1) The degree to which the proposed removal would disrupt the integrity and continuity of the historic landmark or historic district of which it is part.
 - (2) The nature of the resource as a representative type or style of architecture, socio-economic development, historical association or other element of the original designation criteria applicable to the structure or site.
 - (3) The structural integrity and the extent of work necessary to stabilize the structure.
 - (4) The ability of the structure or site to produce a reasonable economic return on investment; however, this factor alone shall not be determinative, but shall be considered along with all other criteria.
 - (5) The post-demolition plans for the site and the relation of those plans to the surrounding area.
- e. For property designated containing archeological resources:
- (1) The applicant shall consult with the state historic preservation officer about any effect of the proposed actions, and what actions are necessary to preserve the site.

- (2) Permanent preservation of these resources or recordation of the of the site as advised by the state historic preservation officer.
 - (3) Comments and recommendations of the state historic preservation officer shall be provided to the Landmarks Board as part of the application.
 4. *Effect of Decision.*
 - a. If approved, work under a certificate shall commence within 180 days or the certificate shall expire. Failure to comply with a certificate of appropriateness and any conditions of the certificate is a violation of this code and may be enforced according to this chapter.
 - b. If denied, within 15 days the applicant may
 - (1) Appeal to the Board of Adjustments according to Section 2.08.
 - (2) Apply for a certificate of economic hardship according to subsection D
 - (3) Resubmit an alternative proposal.
 - c. If the request is for demolition,
 - (1) The applicant may wait 180 days for a landmark or district, or 60 days for a site, at which time the demolition permit shall be issued..
 - (2) The Landmarks Board may request that the City Council extend the delay another 120 days.
 - (3) During the delay the Landmarks Board shall take steps it deems necessary to preserve the structure, including consultation with civic groups, public or private agencies, interested persons to consider preservation, acquisition, or relocation strategies for the structure.
- E. Certificate of Economic Hardship.**
1. *Applicability.* As an alternative to, or upon denial of an application for certificate of appropriateness, an owner may apply for a certificate of appropriateness to authorize work on a historically designated property.
 2. *Review Procedures.* An application for a certificate of economic hardship shall be filed with the PD Director.
 - a. The Director shall schedule a public hearing before the Landmarks Board at the first scheduled meeting 15 days after a complete application.
 - b. Notice shall be posted according to Section 2.01.F.2
 - c. The Landmarks Board may act on the application according to Section 2.01.H.
 - d. The Landmarks Board may solicit expert testimony or require that the applicant submit information concerning the criteria in subsection E.3.
 - e. The Landmarks Board shall issue a certificate of economic hardship if it determines the property or structure has degenerated beyond feasible limits for rehabilitation or rehabilitation is impracticable and there is an economic hardship.
 3. *Review Criteria.* Applications for a certificate of economic hardship shall be reviewed according to the following criteria:
 - a. Estimate of the cost of the proposed work and an estimate of any additional cost that would be incurred to comply any conditions of the Landmarks Board necessary for a certificate of appropriateness.
 - b. A report from a licensed engineer or architect with experience with historic property rehabilitation, as to the structural soundness of any structures and their suitability for rehabilitation.
 - c. A report from a state-certified real estate appraiser as to the estimated market value of the property in its current condition, after completion of the proposed work, after any changes recommended by the Landmarks Board and, in the case of a proposed demolition, after renovation of the existing property for continued use.

- d. In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional, experienced with historic property rehabilitation, as to the economic feasibility of rehabilitation or reuse of the structure.
 - e. If the property is income-producing, the annual gross income from the property, itemized operation and maintenance expenses, and depreciation deduction and annual cash flow before and after debt service for the previous two years.
 - f. All appraisals obtained within the previous two years in connection with the purchase, financing, or ownership of the property.
 - g. Any listing of the property for sale or rent, price asked, and offers received within the previous two years.
 - h. Assessed value of the property according to the two most recent assessments.
 - i. Real estate taxes for the previous two years.
 - j. Form of ownership or operation of the property, whether sole proprietorship, for profit or not-for-profit corporation, limited partnership, joint venture, or other.
 - k. Amount paid for the property, date of purchase, and the party from whom purchased, including a description of the relationship between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer.
 - l. Annual debt service for the previous two years.
 - m. Any consideration by the owner as to profitable adaptive uses for the property.
 - n. Replacement construction plans for the property. Post-demolition plans shall include drawings or sketches with sufficient detail to show the exterior appearance and architectural design of the proposed building or use, but does not require construction documents to be completed.
 - o. Financial proof of the ability to complete the replacement project, which may include a performance bond, a letter of credit, a trust for completion of improvements, or a letter of commitment from a financial institution.
 - p. Any other information considered necessary by the Landmarks Board to determination whether the property may yield a reasonable return to the owners.
4. *Effect of Decision.* If approved, the BDS Director shall issue a building or demolition permit for the proposed work unless there is an appeal. A decision by the Landmarks Board may be appealed to the Board of Adjustment is filed within 15 days of the decision according to 2.08.
- F. **Definitions.** The following terms shall have the specific meaning given for interpreting this section.
- Alteration (Historic Structure).* Any act or process that changes one or more of the exterior architectural features of a structure, including the erection, construction, reconstruction, or removal of any feature of the structure.
- Alteration, Structural.* Any change in a load-bearing member of a structure.
- Archaeological Significance.* Importance as an area, site, place, or landscape that has yielded or is likely to yield information concerning past patterns of human settlement, or artifacts or information concerning previous cultures in Missouri or previous periods of the present culture. Areas, sites, or landscapes of archaeological significance may include aboriginal mounds, forts, earthworks, burial grounds, historic or prehistoric ruins, locations of villages, mine excavations, or tailings, or other locations.
- Architectural Significance.* Embodying the distinctive characteristics of a type, period, style, or method of construction or use of indigenous construction, or representing the work of an important builder, designer, architect, or craftsman who has contributed to the development of the community, county, state, or country.

Degenerated Beyond Feasible Limits for Rehabilitation. When the conditions of the structure are such that the economics of restoration preclude the landowner from making any reasonable economic use of the property if restored, or the restoration is infeasible from a technical or mechanical standpoint.

Demolition (Historic Structure). Any act or process which destroys in part or in whole any building or structure or any act or process which threatens to destroy a historic site or historic landmark or a structure within a historic district by failure to maintain it in a condition of good repair and maintenance.

Economic Hardship. When the landowner cannot economically utilize the property and it is impractical to sell or lease it or no market exists for it at a reasonable price.

Historic Design Guideline. A standard of appropriate activity that will preserve the historic architectural character of a structure or area.

Historic District. An area designated as a historic district by ordinance of the city council, pursuant to procedures in this section, and which is a geographically definable area possessing a significant concentration, linkage, or continuity of sites or structures united by past events, plan or physical development. A district may comprise individual elements separated geographically but linked by association, plan, design, or history.

Historic Landmark. A property or structure designated as a historic landmark by ordinance of the city council, pursuant to procedures in this section, which is worthy of rehabilitation, restoration, and preservation because of its historic and/or architectural significance to the city. Historic landmark status will be reserved for those properties displaying exemplary historic or architectural significance.

Historic Significance. Character, interest or value as part of the development, heritage, or culture of the community, county, state or country; as the location of an important local, county, state or national event; or through identification with a person or persons who made important contributions to the development of the community, county, state or country.

Historic Site. A property or structure designated as a historic site by resolution of city council, pursuant to procedures in this section, which is worthy of rehabilitation, restoration and preservation because of its historic and/or architectural significance to the city but which is of insufficient significance to merit historic landmark status.

Interior Landmark: Any part of an interior designated as an interior landmark by ordinance of the city council, pursuant to procedures in this section, which is worthy of rehabilitation, restoration and preservation because of its historic and/or architectural significance to the city and which remains substantially intact in terms of (1) original configuration, (2) original volume, (3) original architectural ornamentation and decoration; and which exhibits surviving original historical finishes or has the potential for research which could aid in the accurate restoration of such finishes. Interior landmark status will be reserved for those interiors displaying exemplary historic or architectural significance which are customarily open or accessible to the public, or to which the public is customarily invited (not including interiors utilized as places of religious worship). Each designation of an interior landmark shall specify in some detail which interior features are to be protected, and shall be accompanied by a file of photographs which permanently document such features.

Reconstruction. The act or process of reproducing by new construction the exact form and detail of any part of a vanished structure as it appeared at a specific period of time.

Rehabilitation Impracticable. Infeasibility of rehabilitation not only because of physical condition but also inability to turn the property or structure to use or account profitably.

Relocation: Any movement of a structure, object, or artifact on its site or to another site.

Restoration. The act or process of accurately recovering the form and details of a structure or property as it appeared at a particular period of time by removing later work and/or replacing missing original work.

Survey, Historic. The systematic gathering of information on the architectural, historical, or archaeological significance of buildings, sites, structures, objects, or areas through visual assessment in the field and historical research for the purpose of identifying historic sites, historic landmarks, and historic districts worthy of preservation.

10.03 Wireless Telecommunication Facilities

- A. **Legislative Findings.** On February 8, 1996, Congress enacted the federal Telecommunications Act of 1996, P.L. No. 104-458. The purpose of the Act is to deregulate the telecommunications industry, providing a more competitive environment for wired and wireless telecommunication services in the United States.
1. A concomitant effect of increased competition in the market for wireless telecommunications services is an increased demand for antenna sites on towers and other antenna support structures necessary for providing wireless service.
 2. New personal wireless telecommunications technologies, such as personal communications systems, or (PCS) require antenna sites to be denser than previous technologies required. However, due to the uniqueness of the wireless telecommunications industry and constantly changing technology, local regulatory efforts must be sufficiently flexible to allow for the continuing development of the wireless telecommunications industry.
 3. The Telecommunications Act of 1996 preserves the authority of the city to regulate the placement, construction, and modification of towers, antenna support structures and telecommunications facilities and to protect the health, safety and welfare of the public and which is granted to the city under the Constitution and statutes of the State of Missouri and the Charter.
 4. Consistent with the Telecommunications Act of 1996, regulation of towers and telecommunications facilities in certain areas of the City of Springfield as provided in this chapter, will not have the effect of prohibiting any person from providing wireless telecommunications services.
 5. The Federal Communications Commission (FCC) has exclusive jurisdiction over:
 - a. The regulation of the environmental effects of radio frequency emissions from telecommunications facilities.
 - b. The regulation of radio signal interference among users of the radio frequency spectrum.
 6. The uncontrolled proliferation of towers in the City of Springfield could diminish property values, the aesthetic quality of the city, and could otherwise threaten the health, safety, and welfare of the public.
 7. The presence of telecommunications towers, large enclosures, satellite dishes and other large unmovable objects other than standard wood utility poles on the rights-of-way, rather than on private utility easements or fee simple title interests are a danger to the

traveling public and an interference with the use and enjoyment of the rights-of-way by abutting landowners and members of the public.

- B. **Legislative Purposes.** The general purpose of this section is to regulate the placement, construction, and modification of towers and telecommunications facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in Springfield. Specifically, the purposes of this section are:
1. To direct the location of towers and telecommunications facilities in the city;
 2. To protect residential areas and land uses from potential adverse impacts of towers and telecommunications facilities;
 3. To minimize adverse visual impacts of towers and telecommunications facilities through careful design, siting, landscaping, and innovative camouflaging techniques;
 4. To promote and encourage shared use/collocation of towers and antenna support structures as a primary option rather than construction of additional single-use towers;
 5. To avoid potential damage to adjacent properties caused by towers and telecommunications facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained and removed.
 6. To the greatest extent feasible, ensure that towers and telecommunications facilities are compatible with surrounding land uses.
 7. To the greatest extent feasible, ensure that proposed towers and telecommunications facilities are designed in harmony with natural settings and in a manner consistent with current development patterns.
 8. To create a licensing process which allows the city to more efficiently administer this section.
- C. **Applicability.**
1. All towers, antenna support structures and telecommunications facilities, any portion of which are located within the City of Springfield, are subject to this chapter. All towers within the City of Springfield, Missouri at the time of passage of said ordinance, or are annexed at a later date, shall be registered with the city finance director within 60 days from the effective date hereof together with the height, width and location thereof and a registration fee of \$50.00. Failure to register an existing tower shall raise a presumption that said tower, was not a legal nonconforming use on the date of passage of said ordinance. However, said ordinance shall not apply to tower structures used, or to be used, solely for services provided pursuant to a broadcast radio or television license issued by the Federal Communications Commission or to towers and antennas used for private telecommunications services when the equipment is located on the premises of the entity using said private telecommunication service, or the towers and antennas, support structure or masts are located on the primary business premises of a provider of communications services if used to monitor the provider's services and the equipment used by the broadcaster, private telecommunicator or provider is in compliance with any federal, state or local laws, and does not encroach on the public rights-of-way.
 2. Except as provided in this section any current legal use being made of an existing tower or antenna support structure on the effective date of this section, (herein "nonconforming structures") shall be allowed to continue, even if in conflict with the terms of this section. Any tower site that has received city approval in the form of either a conditional use permit or building permit, but has not yet been constructed or located, shall be considered a nonconforming structure so long as such approval is current and not expired.
- D. **Permitted, Conditional, & Accessory Uses.**
1. *Generally.* The allowable use of towers and placement of telecommunications facilities as either permitted uses or conditional uses in the several zoning districts shall be as set forth in this chapter based on the following table except that no telecommunications

towers shall be allowed on any right-of-way. All other utility facilities, regardless of type, shall meet the standards and requirements of the zoning district in which they are located. Any utility facility, equipment, or structure that is to be located above ground on the public right-of-way or private easement with a length or width in excess of 47 inches must receive approval of the council prior to installation. Multiple locations may be approved in one application process.

Table 10-2: Wireless Facilities and Communication Towers

| Tier | Descriptions |
|-----------------|---|
| <i>Tier I</i> | Wireless facilities and antennas mounted on buildings or other structures, including existing towers, public buildings and structures, school buildings and structures, and churches. |
| <i>Tier II</i> | Cell towers of a stealth design that are not greater than 60' in height, located on the same premises or parcel as public buildings and structures, school buildings and facilities, church buildings and noncommercial, not-for-profit residential neighborhood facilities and approved by ordinance. |
| <i>Tier III</i> | Cell tower of a monopole or stealth design that are < 100' in height. |
| <i>Tier IV</i> | Cell towers of a stealth or monopole design that are 100' + in height. |
| <i>Tier V</i> | Cell towers that are: <ol style="list-style-type: none"> a. Not of a stealth or monopole design; or b. 100' + in height and not setback from any residential district at least two feet for every one foot of height; or c. Not able to collocate at least 1 additional provider if the tower height is 100' + or at least 2 additional providers' facilities if the tower height is 120' +. |

2. **Telecommunications Facilities.** Any telecommunications facilities which are not attached to a tower shall be a permitted accessory use to any commercial, industrial, professional, institutional, or multifamily structure, regardless of the zoning restrictions applicable to the zoning district where the structure is located and without having to obtain any prior authorization from the city; provided that the person making such accessory use files a written certification with the city establishing the following:
 - a. That the total height of the antenna support structure and telecommunications facilities do not exceed the structural height limitations in the applicable zoning district under this chapter by more than 20 feet;
 - b. That the antenna support structure and telecommunications facilities comply with the city building code and any applicable state law, does not encroach on the public rights-of-way, and a building permit has been obtained from the department of building development services; and
 - c. That any telecommunications facilities and antennas located on the roof of a building shall comply with setbacks required by the city building code, if any, and do not extend more than 50 inches in the horizontal plane from the side of such an antenna support structure unless the purpose of said protrusion is to permit signal coverage in an area that will not receive such coverage but for an extension beyond 50 inches. Any extension beyond 50 inches must be approved by the administrative review committee of the city prior to construction of said antenna and such approval shall be dependent upon a showing that coverage is unavailable but for the extension, the extension does not violate any other building code of the city, state or federal law that is applicable, encroach upon public rights-of-way and does not pose any danger to the traveling public.
 - d. That the telecommunications facilities will utilize camouflaging techniques or will be side-mounted to an antenna support structure in order that the telecommunications facilities harmonize with the character and environment of the area in which they are located if technically feasible and such techniques will not degrade or distort the service signal. Antennas and support structures shall

be painted to blend with the color of the building if such painting will not interfere with functioning of the antenna or support structure.

E Collocation.

1. *Collocation of facilities.* New towers constructed within the city with height in excess of 60 feet should be capable of accommodating two additional carriers or telecommunications facilities for more than one other provider of communications services (hereinafter referred to as "additional capacity"). Such additional capacity, if any, shall be designated on the application and site plans presented to the city prior to construction of the tower.
2. *Collocation or installation.*
 - a. Any licensee whose tower in excess of 60 feet which is constructed after the effective date of this section and which has been built in accordance with setbacks and special conditions granted to towers with collocation capabilities under this Article, and has available additional capacity for installation or collocation of telecommunications facilities as demonstrated at the time the application for construction was granted, shall agree to allow other persons to install or collocate telecommunications facilities on such a tower subject to reasonable terms and conditions negotiated between the parties including the suitability of the proposed tenant, the credit worthiness and technical abilities of the proposed tenant. However, in no event shall a licensee be required to allow collocation of facilities if to do so would result in technical interference with the delivery of licensee's service. Failure to permit collocation or joint use on a tower which has been built in accordance with setbacks and special conditions permitted for towers designed for collocation may result in any enforcement action as permitted Section 1.07 or termination of utilities following a hearing as permitted in subsection E of this section.
 - b. For the purpose of collocation of antennas, a legal nonconforming tower may be used.
 - c. Failure to comply with the provisions of this subsection E.2 constitutes a material violation of this section, for the purposes of subsection J. of this section.
3. *Exception from Height & Bufferyards/Requirements for Collocation.*
 - a. A licensee of an existing tower may modify the height of its tower to accommodate collocation of additional telecommunications facilities as long as the total height of the tower and telecommunications facilities attached thereto do not exceed the maximum height allowed in the applicable zoning district under the code by more than 20 feet.
 - b. Permission to exceed the maximum permitted height pursuant to this section shall not require an additional distance separation as set forth in subsection F.3.e., nor additional buffer yards or landscaping above that required for the original tower. The tower's premodification height shall be used to calculate such distance separations.
4. *Same Tower Type.* A tower which is modified to accommodate the collocation of additional telecommunications facilities shall be of the same tower type as the existing tower. However, a different type of tower may be permitted by the approval of the administrative review committee if it is demonstrated that permitting a different tower type will not exceed the height permitted in subsection E.3 and will permit the collocation of more carriers than could be accomplished by the modification of the same tower type as the existing tower.
5. *Movement of Tower.*
 1. A tower which is being rebuilt to accommodate the collocation of additional telecommunications facilities may be moved on the same premises as it was

- constructed on, or an adjacent premises, within 50 feet of its existing location as long as required setbacks and buffer yards are maintained.
2. A tower that is relocated pursuant to subsection E.5.a shall continue to be measured from the original tower site for the purpose of calculating the separation distances between towers pursuant to subsection F.3.e. The relocation of a tower under this subsection shall in no way be deemed to cause a violation of subsection F.3.e.
 3. A tower that is relocated on the same premises it was constructed on which comes within the separation distances established in subsection F.3.e shall only be permitted when notarized written consent is obtained from affected residential property owners.
- 6 *Appeal Process.* Any applicant who is denied a tower application, or who is determined by the director of building development services to be in violation of this section shall have the right of a hearing before an administrative hearing examiner appointed by the city manager and mutually agreeable to the applicant or tower owner. Said hearing examiner shall set the hearing date no later than 20 days following the denial of an application, or the determination of a violation and shall consider, in addition to a determination of whether or not a violation exists or the application was improperly denied, the question of the technical or economic feasibility of compliance with this section. In the event the hearing examiner finds that the tower was constructed in accordance with setback and other provisions relating to towers designed for collocation, and said tower is not being made available for joint use or collocation as indicated at the time of application, the hearing examiner shall order utilities disconnected until such time as the tower is used jointly for collocation as originally stated in the application. The hearing examiner's final decision shall be subject to review pursuant to Chapter 536, RSMo. Any appeal under said chapter shall be filed within 30 days from the date of the hearing examiner's decision. Enforcement of the decision of the hearing examiner may be stayed by the posting of a supersedes bond in an amount determined by the hearing examiner to be sufficient under the facts of the case to protect the interests of the public and any third party in the matter whose rights would be adversely affected by such a stay as demonstrated during any hearing on a request for said bond.

F **Construction Standards.**

- 1, *Setbacks.*
 - a. All towers shall be set back a distance equal to:
 - (1) Fifty percent of the height of the tower up to 100 feet, plus one foot for each foot over 100 feet in height; or
 - (2) The distance between the tower base and guy wire anchors, whichever is greater, with the guy wire anchors set back at least 25 feet from adjoining residential districts, public property or a street or at least the rear yard setback from adjoining land in other districts, unless the tower is designed for collocation.

In the event a tower is capable of being used for collocation for at least two additional carriers, the setbacks for structures in the zoning district where the tower is located shall be complied with for the tower base and any guy wire anchors.
 - b. Setback requirements for towers shall be measured from the center of the tower to the property line of the parcel on which it is located.
2. *Structural Requirements.* All towers must be designed and certified by an engineer to be structurally sound and, at minimum, in conformance with the city's building code, any applicable state and federal laws, and other standards outlined in the City Code. A building permit must be obtained before construction may begin.

3. **Separation or Buffer Requirements.**
- a. Towers shall be separated from the types of areas and comply with the minimum standards established in the table set forth below unless: (1) constructed on the same site as another tower designed for the same purpose, (2) the second tower is permitted by the zoning district, and (3) the height of the second tower does not exceed the height permitted in the zoning district where the tower is to be located:

Table 10-3: Tower Separation & Buffer

| Designated Area | Separation Distance |
|---|--|
| Single-family or duplex residential units in a residential district [1] | 300'. If the tower is of a stealth design or is designed for collocation of an additional carrier, then the separation distance may be reduced to 100% of the height of the tower. |
| Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired | 300'. If the tower is of a stealth design or is designed for collocation of an additional carrier, then the separation distance may be reduced to 100% of the height of the tower. |
| Vacant unplatted residentially zoned land and residential units in nonresidential zoned districts [3] | 200' or 100% of tower [2], whichever is greater. |
| Existing multifamily residential units greater than duplex units | 100' or 100% of height of tower, whichever is greater. |
| Nonresidentially zoned lands or nonresidential uses | None; only setbacks apply. |
| Approved heliports | 100' or 100% of the height of tower, whichever is greater. |

[1] Includes modular homes and mobile homes used for living purposes. Separation from a unit for purposes of this chart is to be measured from the edge of the building or structure itself.

[2] Separation measured from the center of the tower to closest building setback line.

[3] Includes any unplatted residential use properties without a valid preliminary plat or valid development plan approval and any multifamily residentially zoned land greater than duplex.

- b. The minimum tower separation distances above listed shall be calculated and applied irrespective of city and county jurisdictional boundaries.
- c. Measurement of tower separation distances for the purpose of compliance with this section shall be measured from the center of a tower to the closest point of a designated area as specified in the table above set forth.
- d. Separation distances from other uses set forth in this subsection may be reduced for towers designed for the collocation of telecommunications facilities of other carriers by obtaining a conditional use permit which will require demonstrating that the separation distances will:
- (1) Have the effect of preventing service to an area of the city; or
 - (2) Constitute a barrier to entry into the market place by the applicant; or
 - (3) Will constitute a technical or economic hardship on the applicant.
- Additionally the applicant must demonstrate that (1) the location, shape, appearance or nature of use of the proposed tower will not substantially detract from the aesthetics of the area nor change the character of the neighborhood in which the tower is proposed to be located, and that landscaping techniques will be used to screen the tower from any adjacent residential use, and (2) the proposed tower will accommodate at least two additional carriers of various telecommunications services. The city council shall consider the information presented by the applicant and determine if a special exception would conflict with the purposes of this section, would create a blight on adjacent property, or interfere with adjacent uses, within the separation area. If the tower requires a use permit, then said showing shall be made to the planning and zoning

commission and city council as a part of the conditional use permit process.

- e. Proposed towers must meet the following minimum separation requirements from towers existing at the time a license is granted pursuant to this section, unless constructed for the purpose of providing collocation capacity on the same site as another tower designed for the same purpose, the second tower is permitted by the zoning district, and the height of the second tower does not exceed the height permitted in the zoning district where the tower is to be located. However, an exception from separation distances between towers may be obtained from city council if the applicant can demonstrate that such an exception is necessary for the engineering design of the system the tower is to be a part of, or that no other option is available to provide coverage for the service area. An exception to the separation requirements shall be approved or denied by ordinance.

Table 10-4: Separation From Other Towers

| Proposed Towers / Types | Existing Towers / Types | | | |
|-----------------------------|-------------------------|-------------------------|-----------------------|-----------------------|
| | Lattice or Guyed 150' + | Lattice or Guyed < 150' | Monopole Towers 75' + | Monopole Towers < 75' |
| Lattice | 3,000' | 2,500' | 1,500' | 750' |
| Guyed | 3,000' | 2,500' | 1,500' | 750' |
| Monopole 75'+ | 1,500' | 1,500' | 1,500' | 750' |
| Monopole < 75 ft. in height | 750' | 750' | 750' | 750' |

For the purpose of this subsection, the separation distances shall be measured by drawing or following a straight line between the center of the existing tower and the center, of the proposed tower.

- 4. **Method of Determining Tower Height.** The height of the tower shall be measured as follows: The vertical distance between the highest point of the tower and the natural grade below this point.
- 5. **Illumination.** Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA) and provisions of the City Code except that seasonal lighting may be permitted as approved by the city. At time of construction of a tower, dual mode lighting shall be requested from the FAA in cases where there are residential uses located within a distance from the proposed tower which is equal to three times the proposed height of the tower.
- 6. **Finished Color & Tower Markings.** Towers not requiring FAA painting or marking shall have either a galvanized steel finish or be painted an off-white, light gray, silver or white finish. No commercial signs or advertising shall be allowed on any towers or telecommunications facilities.
- 7. **Fencing & Screening.** Fences must be constructed around or upon parcels containing towers, antenna support structures or telecommunications facilities and shall be constructed in accordance with Section 8.04 chapter.
- 8. **Bufferyard & Landscape.** All landscaping on parcels containing towers, antenna support structures or telecommunications facilities shall be in accordance with the applicable buffer yard requirements in the zoning district where the tower, antenna support structure of telecommunications facilities are located. Existing vegetation shall be maintained to the extent possible. However, the city may require additional landscaping if to do so

would make the tower, antenna support structure or telecommunications facility more reasonably compatible with the surrounding area, but in no event shall additional landscaping exceed any bufferyard requirements as set out in Section 8.04 and, if a conditional use permit is required Section 2.04. All vegetation used in the landscaping shall be located outside any fenced area.

9. **Security.** All towers must be secured to protect against trespass or unauthorized use of the property, tower, or telecommunications facilities.
 - a. If high voltage is necessary for the operation of a tower or telecommunications facilities and it is presented in a ground grid or in the tower, warning signs shall be permanently attached to the exterior side of the perimeter fence and located every 25 feet. The signs shall display in bold letters at least eight inches high the following: "HIGH VOLTAGE: DANGER"
 - b. Identification tags or signs shall be posted on all communications towers and telecommunications facilities in accordance with FCC and OSHA requirements. The tags shall include the FCC tower registration number, the latitude and longitude of the tower, and the name, address, and telephone number of the tower owner. The identification tags shall be posted on the perimeter fence and shall be constructed of durable materials.
10. **Access.** All parcels upon which towers are located must provide access to at least two vehicular parking spaces located within 100 feet of the tower. Traffic associated with the facility shall not adversely affect traffic on adjacent streets.
11. **Interference with Public Safety Radio Services.** In order to ensure that the city's public safety radio services will be free from objectionable technical interference, all applicants requesting a permit to site a tower or telecommunications facilities shall agree:
 - a. To demonstrate compliance with good engineering practices;
 - b. To provide the city a copy of all intermodulation studies submitted to the FCC;
 - c. Not to induce objectionable technical interference to the city's public safety radio services;
 - d. To comply with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI);
 - e. In the case of co-location of telecommunications facilities either in the same location or on the same tower as the city's, to not cause or permit to be caused by its transmissions or other activities on the premises, objectionable technical inference of any kind whatsoever to the broadcasting transmission, reception, or electromagnetic communications of the city;
 - f. To pay for any studies requested by the city manager to determine if the applicant's telecommunications facilities are causing objectionable technical interference;
 - g. Upon notification by the city manager, if the operations of the applicant are causing objectionable technical interferences, to immediately undertake all steps necessary to determine the cause of and eliminate such interference at the cost of the applicant. If said interference continues for a period in excess of 48 hours after notice from the city manager, the city shall have the right to cause the applicant to cease operating the equipment that is causing the objectionable technical interference or to reduce the power sufficiently to ameliorate the objectionable technical interference until the condition causing said interference has abated.
12. **Certifications & Inspections.**

- a. All towers shall be certified by a structural engineer to be structurally sound and in conformance with the requirements of the city building code and all other construction standards set forth by the City's Code and federal and state law. For new monopole towers, such certification shall be submitted with an application pursuant to subsection G.2.a and every ten years thereafter; for existing monopole towers, such certification shall be submitted within 60 days of the effective date of said ordinance and then every ten years thereafter; for new lattice or guyed towers, such certification shall be submitted with an application pursuant to subsection G.2.a and every ten years thereafter; and for existing lattice or guyed towers, such certification shall be submitted within 60 days of the effective date of said ordinance and then every ten years thereafter. The tower owner may be required by the city to submit more frequent certifications should there be reason to believe that the structural and electrical integrity of the tower is or has been jeopardized.
 - b. The city and its agents shall have authority to enter onto the property upon which a tower is located, between the inspections and certifications required above, to inspect the tower for the purpose of determining whether it complies with the city's building code and all other construction standards provided by the City's Code and federal and state law.
 - c. The city reserves the right to conduct such inspections at any time, upon reasonable notice to the tower ordinance. All expenses related to such inspections by the city shall be borne by the tower owner.
13. *Maintenance.*
- a. Licensees shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.
 - b. Licensees shall install and maintain towers, telecommunications facilities, wire, cables, fixtures, and other equipment in compliance with the requirements of the National Electric Safety Code and all FCC, state and local regulations, and in such manner that will not interfere with the use of other property.
 - c. All towers, telecommunications facilities and antenna support structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person.
14. *Drainage.* All parcels upon which towers are located must contain adequate drainage facilities, which are approved by the director of public works.
15. *Stealth Design.* All licensees shall make every reasonable effort to design and construct new towers and telecommunications facilities to blend into the character and environment of the area in which they are located, including the use of camouflage techniques, path array antennas and side mounting antennas unless such use shall create a hazard for the traveling public or it is not technically feasible to use such design and collocate other facilities on the tower.

G Licensing Requirement.

1. *License Required.* No person may own or operate a tower, or place wireless telecommunications facilities on a tower, without first obtaining from the city a license to do so pursuant to this section (herein referred to as "tower license" or "license"). This requirement applies both to new towers and to existing towers or nonconforming structures on the date of passage of this section. Unless otherwise expressly provided elsewhere in this section, the license required by this section is in addition to the procedures and approval required pursuant to this chapter of the City Code pertaining to zoning and development and the requirement for a building permit to construct the tower

itself. A license may be denied if the applicant is not in compliance with section 20-146 or any other provision of the Springfield City Code regarding the use or provision of towers, telecommunications services or public property, health or safety. The license required under this section shall not be in lieu of a license to conduct business in the City of Springfield, Missouri. Owners of existing towers shall have six months from passage of said ordinance to obtain a license as required by this subsection. A license shall be for a term of not more than five years. A renewal must be made in compliance with this section 36-466, telecommunication towers, and an applicant must demonstrate an existing tower or telecommunications facilities are needed and reasonable alternatives will not meet their needs for continued service capability.

2. **Applications.** In order to construct and operate a tower after the effective date of this section, a person must file the following applications:
The application shall also provide the following:
- a. **License Application.** Prior to the construction of any tower, a license application and fee in the amount of \$200.00 shall be submitted to the director of finance. This is an initial license application fee and an additional fee shall be due from the applicant should the city's actual costs of approval of the license exceed the fee of \$200.00. The city reserves the right to employ an outside consultant to review any application. The applicant shall submit a fee in the amount of the city's estimated expense related to such review as an additional application fee prior to the city incurring such expenses. All tower license applications shall include the following information and documentation:
- (1) The name, address, and telephone number of the applicant. If the applicant is not the owner of the parcel of land upon which the tower is situated, the written consent of the owner, and the name, address, telephone number of the owner, shall be evidenced in the application. The application shall also contain an affirmative statement indicating that both the owner and applicant are aware of and agree to comply with the provision of subsection J. regarding abandonment.
 - (2) An affirmative statement of whether or not the applicant will be developing the tower for its own use or for the use of others.
 - (a) If for applicant's use, the following is required:
 - (i) A description of the use.
 - (ii) A description of the network the proposed tower will be part of.
 - (iii) A description of the technological design proposed and description of alternatives.
 - (iv) Evidence of drive-by tests or other studies relating to the proposed tower which support location on the proposed property.
 - (v) Construction date or schedule.
 - (b) If the applicant is developing the proposed tower for the use of another, in addition to the information required in paragraph "a", the applicant will identify whether or not the intended tower use is based on a lease or other contract or for speculation. The city may require evidence of the schedule for implementing the use of a tower and commitments for its use.
 - (3) The legal description, parcel identification number, and address of the parcel of land upon which the tower is to be situated.
 - (4) The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures which are capable of providing a location to construct the telecommunications facilities that are planned to be housed or located on the tower within a 3,000-foot radius of the proposed new tower site, including city-owned property.

- (5) Written documentation that the applicant made diligent, but unsuccessful efforts for permission to install or collocate the applicant's telecommunications facilities on city-owned towers or useable antenna support structures or made diligent, but unsuccessful efforts to install or collocate the applicant's telecommunications facilities on towers or useable antenna support structures owned by other persons.
- (6) Written documentation containing the following information:
- (a) Whether the applicant's telecommunications facilities are technically capable of being installed or collocated on another person's tower or useable antenna support structure.
 - (b) If the applicant asserts that its telecommunications facilities are economically or technically infeasible of being installed or collocated on another person's tower or useable antenna support structure, a written statement from the applicant setting forth in detail the reason(s) with regard to each person contacted, why such installation or collocation is technically or economically infeasible. "Technically infeasible" for the purpose of this subsection means that the collocation or installation of applicant's telecommunications facilities on another person's tower or useable antenna support structure would not comply with sound engineering principles, would materially degrade or unreasonably impair the tower or useable antenna support structure's current or planned use, or interfere operationally with applicant's planned use. City may require additional evidence of collocation being technically infeasible if, in the opinion of the administrative review committee that additional information is necessary to determine that collocation is technically infeasible. "Economic infeasibility" for purposes of this section shall mean that the cost of collocation is not a reasonable business decision from an economic standpoint when all factors are considered.
 - (c) If the tower is designed to accommodate one or more additional carriers or capacity for the location of telecommunications facilities other than that of the applicant and, if so, the application shall designate the nature, quality, and location of the collocation that will be accommodated.
 - (d) An affidavit submitted with written technical evidence from a radio frequency engineer that the proposed tower or telecommunications facilities cannot be installed or collocated on another person's tower or useable antenna support structure located within the search area and must be located at the proposed site in order to avoid prohibiting or effectively prohibiting the provision of personal wireless service by the applicant.
 - (e) Written technical evidence from a structural engineer that the proposed structure meets the standards set forth in this section 36-466, telecommunication towers, and the applicable requirements of the department of building development services.
 - (f) A certification submitted with written technical evidence from a qualified agent of the applicant that the proposed facilities meet the standards set forth in this section and the applicable requirements of the department of building development services.
 - (g) A certification submitted with written technical evidence from a qualified agent of the applicant that the proposed site of the

- tower or telecommunications facilities does not pose a risk of explosion, fire, or other danger due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals.
- (h) Written technical documentation of any Federal Aviation Administration (FAA) approvals and lighting requirements and, if applicable, documentation of approval or denial of dual mode lighting as provided in this section and a statement whether an FAA "Determination of No Hazard to Aviation" is required by 47 C.F.R. part 17 of the tower. If such a determination is required, no building permit for the tower shall be issued until a copy of the determination is filed with the city.
- (7) A map of the city and the first half-mile of all bordering communities showing the design of the applicant's entire existing or proposed wireless telecommunications network. Such map shall, at minimum, indicate the exact location of all proposed or existing tower and antenna sites, their dimensions, specifications, and signal area coverage.
 - (8) A site plan drawn to scale specifying the location of tower(s), its planned height, guy anchors (if any), transmission building(s), all telecommunications facilities, accessories, parking access plans, landscaping plans (specifying size, spacing and plant material proposed), fences and zoning designation of adjacent land.
 - (9) Two alternative camouflaging techniques or stealth designs for the proposed tower and all associated telecommunications facilities if technically feasible and any explanation as to why the use of same would be technically or economically infeasible.
 - (10) Color photo simulations showing the proposed site of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the closest residential property or properties and from adjacent roadways.
 - (11) The identity of all adjacent property owners.
 - (12) If the proposed tower is sited within Central Springfield, evidence that:
 - (a) Sites outside Central Springfield will not accommodate the proposed tower, considering size, topography and physical features; or
 - (b) The proposed equipment or its equivalent on a tower outside Central Springfield cannot function effectively or at least in parity with other similar equipment in place or approved by the Springfield City Council.
 - (c) For the purposes of these restrictions, Central Springfield is defined as the area of Springfield containing the central business district and most of the historically and architecturally significant resources of the city, specifically defined by the south boundary of the railroad right-of-way north of Commercial Street on the north, Glenstone Avenue on the east, Grand Street on the south, and Kansas Expressway on the west.
 - (13) A maintenance bond in the amount of ten percent of the cost of construction of the tower to ensure that the tower is maintained in a condition that complies with all applicable building standards and regulations, including, but not limited to, the provisions of said ordinance.
 - (14) A bond or irrevocable letter of credit in an amount determined by the city manager to ensure that, should the tower be abandoned pursuant to this section removal of said tower will be guaranteed.

- (15) An applicant shall only be required to maintain one maintenance bond pursuant to subparagraph m. and one removal bond pursuant to subparagraph n for all of the applicant's towers in the city; provided, however, the applicant must maintain the initial level of such bonds if drawn upon by the city for any reason.
 - (16) Proof of general liability insurance for claims for injury or death and property damage in an amount approved by the city, but not less than \$300,000.00 per occurrence for personal injury and \$300,000.00 per occurrence for property damage with the city listed as an additional insured.
 - (17) A statement that the applicant has no outstanding and overdue debt to the city.
 - (18) An acknowledgment that, by signing a permit application, the applicant agrees to indemnify and hold harmless the city consistent with indemnification language in the application.
 - (19) The tower and/or landowner shall promptly notify the city by certified or registered mail of the sale, transfer, or assignment of any tower or telecommunications facility. Each sublease shall be conditioned upon the sublease obtaining the necessary approvals for the subject facility or site from the city prior to sitting such facility.
Within 45 days after a license application for a tower not requiring a conditional use permit or a tower other than a Tier II tower is filed with the director of finance, the director shall approve or deny the application if the director of finance determines that the applicant meets all the requirements of subsection G.2. If the application is for a Tier II tower or a tower requiring a use permit, the license application shall be approved or denied within 14 days of the granting of a Tier II or conditional use permit for said tower. If the application is approved, the director of finance shall issue the license itself after all requirements for the tower are complete.
- b. *Conditional Use Permit Application.* If the zoning district in which the tower is proposed to be located requires a conditional use permit, a conditional use permit application and fee shall be submitted to the director of planning and development in accordance with Article 2 of this chapter.
 - c. *Tier II Tower Permit Application.* An application for a Tier II tower shall be reviewed by the city council and approved or denied by ordinance following a publication of notice in the same manner as for a conditional use permit application and a public hearing before council. The application shall include the stealth technology being used, a site plan showing the location of the tower(s) on the premises in relation to existing structures and adjacent residential uses, the landscaping plan, and demonstrate that the granting of a permit will not have any adverse impact on adjacent property uses or functions. No public hearing shall be held before city council until a complete application containing all required information and a \$100.00 deposit for costs has been filed. No Tier II permit shall be issued until the costs to the city of review of such permit is paid by the applicant. The city council may grant a Tier II tower application upon the applicant demonstrating to the satisfaction of the city council that:
 - (1) The tower is to be located on a premises or parcel where public buildings, facilities or structures, school buildings or facilities, church buildings or a noncommercial, not-for-profit residential neighborhood facilities are located; and
 - (2) The tower height will not exceed 60 feet; and
 - (3) The stealth design blends into the surrounding area and the structures existing on the premises where the tower is to be located; and

- (4) The site plan minimizes the impact of the presence of the tower on adjacent uses; and
 - (5) If there is to be more than one tower on a premises, the presence of more than one tower structure (if more than one is to be built) on the same site or premises is a part of the overall stealth design to be utilized on the premises such as, but not limited to, a series of light standards utilized as tower structures; and
 - (6) A request for reduction of the separation requirements of subsection F.3.e. for towers on the same premises is a part of the stealth design to be utilized on said site; and
 - (7) A request for reduction of the separation requirements of subsection F.3.e. for towers not located on the same premises is necessary for providing service to an area of the city, the separation requirements constitute a barrier to entry into the market place by the applicant, or will constitute a technical or economic hardship on the applicant; and
 - (8) Any light or noise from the tower will not violate light and noise standards of the land development code or other codes of the city; and
 - (9) The landscaping plan minimizes the impact of the tower location on the appearance of the premises or site on which the tower is to be located.
- d. ***Building Permit Application.*** After a conditional use or tier II tower permit has been approved or if such a permit is not required, a building permit application and fee shall be submitted to the director of building development services. The application shall include sealed plans prepared by an engineer licensed in the State of Missouri for the tower construction and site. The tower site plan included with the building permit application shall show the design for, or present existence of, adequate drainage facilities which have been approved by the director of public works. The applicant shall also provide evidence that the applicant has all required licenses. The application shall also include items a through s listed above under subsection G.2 The application shall also include items (1) through (19) listed in subsection G.2.a. above.
3. ***Applications for Wireless Facilities on Towers.*** No person shall construct or maintain a wireless facility on a tower without first obtaining a license from the director of finance for such wireless facilities. An application shall include the name and address of the applicant, a statement by a qualified engineer or other professional that the addition of such wireless facilities meets all conditions of the City Code, the location of the tower and the location on the tower itself where the wireless facilities will be located, the location on the site for any supporting equipment and utility for said wireless facility, and the approximate length of time the applicant plans to use the tower to locate its wireless facilities. The fee for this license shall be \$50.00 and shall be renewable every five years in accordance with subsection G.7
4. ***Inspections.*** By applying for a conditional use permit, Tier II permit, building permit, or tower license, an applicant grants the city authority to enter onto its property to inspect the tower for the purpose of determining whether it complies with the applicable state law and all other construction standards provided by the City Code and federal law. The city reserves the right to conduct such inspections at any time.
- 5 ***Filing Requirement.*** A licensee shall certify in writing that its tower is structurally sound and conforms to the requirements of the applicable state law and all other construction standards set forth by the City Code, federal and state law every five years by filing, by January 1 of every fifth year following the date of the grant of its tower license a sworn statement by the licensee or his representative to that effect. All licensees or owners of towers in existence on the effective date of this section shall submit a statement by December 15, 1997, and by January 1 every five years thereafter that said tower is free

from hazards and that the tower does not pose an imminent threat to the surrounding area or public health and safety. Together with this statement, every licensee shall provide a certificate of liability insurance for no less than \$300,000.00 coverage for injury to persons or and an additional \$300,000.00 coverage for property as a result of any tower failure or malfunction or defect which lists the city as an additional insured. Licensee shall list city as a party who must be notified should this insurance be canceled or discontinued for any reason 30 days before the expiration of coverage.

6. *Discontinuance of Use.* In the event the licensed use of a tower is discontinued by the licensee, the licensee shall provide written notice to the city of its intent to discontinue use and the date when the use shall be discontinued.
 7. *License Renewal Fee.* On or by January 1 of every fifth year following the granting of an initial tower or wireless telecommunications facilities license for a new or existing tower or facilities placed on a new or existing tower, each licensee shall submit license renewal fee of \$50.00. In no event shall a license be revoked or considered expired for failure to pay the fee unless the licensee has received at least 30 days' written notice of the proposed action.
- H. **Revocation of License.** The city may at any time revoke a tower license for failure to comply with the provisions of this section, or any other city code or state or federal law. To properly revoke a tower license, the city must comply with the procedures set forth below:
1. The director of finance shall provide licensee with written notice of all causes for revocation and the intent to revoke and shall allow licensee 60 days subsequent to receipt of the notice in which to correct the violations or to provide adequate assurance of performance in compliance with said ordinance. Together with the notice required herein, the director of finance shall provide licensee with written findings of fact which are the basis of the revocation.
 2. The city shall provide the licensee with the right to a public hearing before the hearing examiner appointed for that purpose by the city manager and mutually agreed to by the parties, which public hearing shall follow the 60-day notice required in subsection H.1. All interested parties shall be allowed an opportunity to be heard at the public hearing and present evidence.
 3. After the public hearing, the hearing examiner shall, within 30 days after the public hearing date, issue a written order setting forth his findings of fact and conclusions of law forming the basis for his decision.
 4. Upon written determination by the hearing examiner to revoke a license, the licensee may appeal the decision to a court of competent jurisdiction pursuant to Chapter 536, RSMo. The hearing examiner may provide for a supersedes bond in an amount deemed by said examiner to be sufficient to protect the interests of the public, and such third parties whose interests were identified during any hearing on such a request to post a bond, to permit the stay of enforcement of any revocation or enforcement action by the city.
 5. Upon satisfactory correction by licensee of the violation upon which said notice was given as determined in the director of finance's sole discretion, the initial notice shall become void.
 6. Upon licensee's failure to correct a violation as found by the hearing examiner, the city manager or his designee may issue an order to disconnect utilities to said tower to any utility company providing same unless a supersedeas bond in an amount determined by the hearing examiner under subsection H.4. is provided. As long as said bond is in full force and effect, and an appeal is pending under Chapter 536, RSMo, no order to disconnect utilities shall be made. Said order shall not be issued prior to 30 days from the date of the hearing examiner's written determination. Said order shall be served upon the chief executive officer thereof, together with the licensee at the last known address, and have attached to it the findings of the hearing examiner.

- I. **Transfer of License.** A tower license may not be sold, transferred, leased, or assigned to any other person, without the consent of the director of finance, such consent not to be unreasonably withheld.
- J. **Abandonment of Tower.**
1. In the event the use of any tower has been discontinued for a period of one year, or in the event that a licensee has taken no action within 180 days after the revocation of a tower license pursuant to subsection H. to appeal the decision of the hearing examiner or to remedy or correct the violations resulting in the revocation, such tower shall be deemed abandoned.
 2. The city shall provide the tower owner three months' notice and an opportunity to be heard before a hearing examiner appointed by the city manager for the purpose and agreeable to the tower owner if he/she may be located, before initiating such action. After such notice has been provided, the city shall have the authority to initiate proceedings to either acquire the tower and any appurtenances attached thereto at the then fair market value, to approve the sale of the tower to a third party or in the alternative, order the demolition of the tower and all appurtenances.
 3. The city shall provide the tower owner with the right to a public hearing before the hearing examiner, which public hearing shall follow the three-month notice required in subsection J.2. All interested parties shall be allowed an opportunity to be heard at the public hearing.
 4. After a public hearing is held pursuant to subsection J.1.b., the hearing examiner may order the forfeiture to the city or demolition of the tower. The city may draw upon any maintenance bond as provided in subsection G.2.a.(14) or performance bond or letter of credit filed pursuant to subsection M. or may otherwise require licensee to pay for all expenses necessary to acquire or demolish the tower. The tower owner may stay such a draw or enforcement of an order of abandonment if he/she posts a supersedeas bond in an amount set by the hearing examiner sufficient to protect the interests of the public. However, in no event shall the removal of a tower which is determined to create a danger to the public or adjacent property be stayed due to the filing of such a bond.
- K. **Variances & Special Exceptions.** Any request to deviate from any of the requirements of this section shall require either a variance approval in conformance with the procedures set forth in this chapter or the granting of a special exception under subsection F.3.d.
- L. **Location of Towers on City-owned Property.** The city manager or his designee may authorize any person to locate a tower, antenna support structure or telecommunications facilities on publicly owned property, subject to the application process set forth in subsection G. and subject to the terms and conditions of any lease agreement executed between the city and such person, provided no tower shall be permitted on public right-of-way.
- M. **Miscellaneous.**
1. *Dangerous structures.* All towers within the city limits of Springfield, Missouri shall be subject to the procedure set forth in chapter 26, article III of the Springfield City Code. Should the city have to take action under said code provision to remove a dangerous structure or abate a nuisance or health hazard, then a tax bill may be assessed in the same manner as for a building that is demolished or for the abatement of a nuisance. In addition, the city may draw upon any bond or letter of credit on file with the city for payment of the costs of such abatement or removal.
 2. *Non-waiver.* Nothing in this section shall preclude the city from exercising any right or remedy it may have in law or equity to enforce the terms and conditions of this section.
- N **Enforcement & Reservation of Rights.**

1. The provisions of this section shall be enforced against all owners as operators of towers or telecommunications facilities within the city and all owners of land upon which towers or telecommunications facilities are sited within the city. The city shall have the right to withhold any approvals with respect to any application by any such party in the event that it shall find that the party is not in compliance with the provision of this until such noncompliance has been cured.
 2. The city reserves the right to impose any other reasonable conditions it determines are necessary for the proper placement, construction, or modification of towers or telecommunications facilities, and to impose any other reasonable conditions on the issuance of a permit or conditional use permit issued by the city for placement, construction, or modification of a tower or telecommunications facilities.
- O. **Definitions.** For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The word "may" is directory and discretionary and not mandatory.
- Act.* The federal Communications Act of 1934 as amended by the Telecommunications Act of 1996 and as may, from time to time, be amended.
- Antenna Support Structure.* Any building or other structure other than a tower which can be used for location of wireless telecommunications facilities.
- Applicant.* Any person that applies for a tower license pursuant to subsection G. of this section.
- Application.* The process by which an applicant submits a request and indicates a desire to be granted a license to construct, own, or operate a tower within the city. An Application includes all written documentation made by an applicant to the city concerning such a request.
- City.* The City of Springfield, a municipal corporation, in the State of Missouri, acting by and through its city manager or his designee.
- Code.* The City of Springfield Code of Ordinances.
- Communications or Telecommunications.* The transmission, between or among points as specified by the user, of information of the user's choosing, without change in the form or content of the information as sent or received, by wire, radio, optical cable, electronic impulses, or other similar means. As used in this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols.
- Council.* The Springfield, Missouri, City Council.
- Director.* The director of department of building development services.
- Engineer.* Any engineer licensed by the State of Missouri.
- FCC.* The Federal Communications Commission and any legally appointed, designated, or elected agent or successor.
- Licensee.* Any person who has lawfully obtained a tower license pursuant to subsection G.
- Person.* Any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not-for-profit.
- Site.* The actual location of a tower and may be only part of a larger parcel or premises.

Stealth. Any tower or telecommunications facilities which are designed to blend into the surrounding environment.

Telecommunications Facilities. Any cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the wireless transmission or reception of wireless telecommunications as authorized by the FCC which a person seeks to locate or has installed upon a tower or antenna support structure. However, the term telecommunications facilities shall not include:

- (1) Any satellite earth station antenna two meters in diameter or less which is located in an area zoned and used for industrial or commercial purposes;
- (2) Any satellite earth station antenna one meter or less in diameter, regardless of zoning category;
- (3) Any satellite earth station in excess of two meters in diameter which is utilized for the reception of broadcast television, video or radio signals and which is an ancillary use to a structure on the premises of the holder of the broadcast license.

Tower. A self-supporting lattice, guyed or monopole structure constructed from grade which supports wireless telecommunications facilities. The term "tower" shall not include amateur radio operators' equipment, as licensed by the Federal Communications Commission. The "term" tower does not include utility poles that are owned by a utility provider and are primarily utilized for the support of electrical, telephone, cable television, street lighting, or other similar cables or wireless telecommunications facilities, are located on public rights-of-way or easements for that purpose and are a part of a system of such utility poles throughout the City of Springfield, Missouri.

10.04 Marijuana & Medical Marijuana Uses

- A. **Intent.** The intent of this section is to allow marijuana and medical marijuana facilities while minimizing any possible adverse effects of these uses on the surrounding neighborhood. Marijuana-related uses are subject to additional district- or use-specific standards in this section.
- B. **Applicability.** In association with the use table in Section 4.02, specific marijuana and medical marijuana uses are further restricted to specific districts indicated in Table 10-5. All uses are subject to the general use, development, form, and design standards of the applicable district.

| Table 10-5: Permitted Marijuana Uses and Districts | | | | | | |
|---|--|----|--------|-------|-------|-------|
| Use Type | Separation | CC | C-MIX2 | GC | L/C | HM |
| Medical, comprehensive, or microbusiness dispensary facility | 1,000' from elementary or secondary school or place of worship. 200' from a child daycare | P | P | P | P | P |
| Medical or comprehensive marijuana infused product manufacturing Type 2 extraction | 1,000' from elementary or secondary school or place of worship. 200' from a child daycare | P | P | P | P | P |
| Medical or comprehensive marijuana cultivation facility or microbusiness marijuana wholesale facility | 1,000' from elementary or secondary school, place of worship, or child daycare | | | P / C | P / C | P / C |
| Marijuana testing facility | 1,000' from elementary or secondary school, place of worship, or child daycare | | | | P | P |
| Medical or comprehensive marijuana infused product manufacturing Type 1 extraction | 1,000' from elementary or secondary school, place of worship, or child daycare | | | | | P / C |

C = Conditional use permit required if adjacent to or across the street from residential uses; use is subject to the process and criteria in Section 2.04 in addition to the standards and criteria of this section.

- C. **Specific Use Standards.** Marijuana and medical marijuana facilities shall meet the following additional standards in districts where they are permitted or allowed by conditional use permit.
1. A business license shall be obtained annually, and the marijuana and medical marijuana license issued by the State of Missouri shall be displayed in an open and conspicuous place on the premises.
 2. Facilities must develop, implement, and maintain an odor control plan, which shall address odor mitigation practices including engineering controls, such as system design and operational processes. The plan shall be reviewed and certified by a professional engineer or a certified industrial hygienist to effectively mitigate odors for all odor sources. No use shall emit an odor that creates a nuisance in violation of City Code.
 3. The location and separation measures of Table 10-## shall be applied as follows:
 - a. In the case of a freestanding facility, the distance between the facility and the protected use shall be measured from the closest external wall of the facility structure to the closest point of the property line of the protected use.
 - b. If the protected use is part of a larger complex or campus, such as an office building or strip mall, the distance shall be measured to the entrance or exit of the protected use.
 - c. If the facility is part of a larger complex or campus, such as an office building or strip mall, the distance shall be measured from the facilities closes entrance or exit to the property line of the protected use.
 - d. If the facility and the protected use are both part of a larger complex or campus, the distance shall be measured between the facility and protected uses entrances.
 - e. Measurements shall be made along the shortest path between the demarcation points that can be traveled by foot.
 4. No marijuana or medical marijuana facility shall be located in a building that contains a residence.
 5. All marijuana and medical marijuana facilities shall be closed to the public between the hours of 10:00 p.m. and 6:00 a.m., no persons not employed by the business shall be on the premises, and no sales or distribution of marijuana shall occur upon the premises during that time.
 6. No marijuana may be smoked, ingested, or otherwise consumed on the premises of a marijuana or medical marijuana facility.
 7. All operations and all storage of materials, products, or equipment shall be within a fully enclosed building. No outdoor operations or storage shall be permitted.
 8. If multiple licenses are issued for one location, then restrictions for the highest intensity use shall apply.
- D. **Definitions.** The following terms shall have the specific meaning given for interpreting this section.

Child Daycare. A child care facility, as defined by Section 210.201 RSMo., or its successor provisions, that is licensed by the State of Missouri.

Comprehensive Facility. A comprehensive marijuana cultivation facility, comprehensive marijuana dispensary facility, or a comprehensive marijuana-infused products manufacturing facility.

Comprehensive Marijuana Cultivation Facility. A facility licensed by the state to acquire, cultivate, process, package, store on-site or offsite, transport to or from, and sell marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones) to a medical facility, comprehensive facility, or marijuana testing facility. A comprehensive marijuana cultivation facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana. A comprehensive marijuana cultivation facility's authority to process marijuana shall

include the creation of prerolls, but shall not include the manufacture of marijuana-infused products.

Comprehensive Marijuana Dispensary Facility. A facility licensed by the state to acquire, process, package, store on site or off site, sell, transport to or from, and deliver marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), marijuana-infused products, and drug paraphernalia used to administer marijuana to a qualifying patient, primary caregiver, or consumer, as set forth and defined in Article XIV of the Missouri State Constitution, anywhere on the licensed property or to any address as directed by the patient, primary caregiver, or consumer, and consistent with the limitations in Article XIV of the Missouri State Constitution and Springfield City Code, to a comprehensive facility, a marijuana testing facility, or a medical marijuana facility. Comprehensive dispensary facilities may receive transaction orders at the dispensary directly from the consumer in person, by phone, or via the internet, including from a third party. A comprehensive marijuana dispensary facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana, but shall collect all appropriate tangible personal property sales tax for each sale, as set forth in Article XIV of the Missouri State Constitution and Springfield City Code. A comprehensive marijuana dispensary facility's authority to process marijuana shall include the creation of prerolls.

Comprehensive Marijuana-infused Products Manufacturing Facility. A facility licensed by the state to acquire, process, package, store, manufacture, transport to or from a medical facility, comprehensive facility, or marijuana testing facility, and sell marijuana-infused products, prerolls, and infused prerolls to a marijuana dispensary facility, a marijuana testing facility, or another marijuana-infused products manufacturing facility. A comprehensive marijuana-infused products manufacturing facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana.

- (1) Type 1 extraction facility: A facility which uses combustible gases, CO₂ or other hazardous substances in the marijuana extraction process.
- (2) Type 2 post-extraction facility: A facility which uses marijuana extractions to incorporate into edibles, ointments, etc., and does not use combustible gases, CO₂ or other hazardous substances.

Elementary or Secondary School. Any public school, as defined in Section 160.011 RSMo., or any private school giving instruction in a grade or grades not higher than the twelfth grade, but does not include any private school in which education is primarily conducted in private homes.

Marijuana or Marihuana. Cannabis indica, Cannabis sativa, and Cannabis ruderalis, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the marijuana plant and marijuana-infused products. "Marijuana" or "marihuana" do not include industrial hemp as defined by Missouri statute, or commodities or products manufactured from industrial hemp.

Marijuana Facility. A comprehensive marijuana cultivation facility, comprehensive marijuana dispensary facility, marijuana testing facility, comprehensive marijuana-infused products manufacturing facility, microbusiness wholesale facility, microbusiness marijuana dispensary facility, or any other type of marijuana-related facility or business licensed or certified by the state pursuant to Article XIV, Section 2 of the Missouri State Constitution. Marijuana facilities do not include medical marijuana facilities licensed pursuant to Article XIV, Section 1 of the Missouri State Constitution.

Marijuana-infused Products. Products that are infused, dipped, coated, sprayed, or mixed with marijuana or an extract thereof including, but not limited to, products that are able to be vaporized or smoked, edible products, ingestible products, topical products, suppositories, and infused prerolls.

Marijuana Microbusiness Facility. A facility licensed by the state as a microbusiness marijuana dispensary facility or microbusiness wholesale facility, as defined in this section.

Marijuana Testing Facility. A facility certified by the state to acquire, test, certify, and transport marijuana, including those originally licensed as a medical marijuana testing facility.

Medical Marijuana. Marijuana allowed for the limited legal production, distribution, sale and purchase for medical use as governed by Article XIV of the Missouri State Constitution.

Medical Marijuana Cultivation Facility. A facility licensed by the state to acquire, cultivate, process, package, store onsite or off-site, transport to and from, and sell marijuana, marijuana seeds, and marijuana vegetative cuttings (also known as clones) to a marijuana dispensary facility, marijuana testing facility, medical marijuana cultivation facility, or to a medical marijuana-infused products manufacturing facility. A medical marijuana cultivation facility's authority to process marijuana shall include the production and sale of prerolls, but shall not include the manufacture of marijuana-infused products.

Medical Marijuana Dispensary Facility. A facility licensed by the state to acquire, process, package, store onsite or off-site, sell, transport to or from, and deliver marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), marijuana-infused products, and drug paraphernalia used to administer to a qualifying patient, a primary caregiver, as set forth and defined in Article XIV of the Missouri Constitution, anywhere on the licensed property or to any address as defined by the patient or primary caregiver, so long as the address is a location allowing for the legal possession of marijuana, another medical marijuana dispensary facility, a marijuana testing facility, a medical marijuana cultivation facility, or a medical marijuana-infused products manufacturing facility. Dispensary facilities may receive transaction orders at the dispensary in person, by phone, or via the internet, including from a third party. A medical marijuana dispensary facility's authority to process marijuana shall include the production and sale of prerolls, but shall not include the manufacture of marijuana-infused products.

Medical Marijuana Facility. Any medical marijuana cultivation facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility, as governed by Article XIV, Section 1, of the Missouri State Constitution.

Medical Marijuana-infused Products Manufacturing Facility. A facility licensed by the state to acquire, process, package, store onsite or off-site, manufacture, transport to or from, and sell marijuana-infused products to a medical marijuana dispensary facility, a marijuana testing facility, a medical marijuana cultivation facility, or to another medical marijuana-infused products manufacturing facility.

- (1) *Type 1 Extraction Facility.* A facility which uses combustible gases, CO₂ or other hazardous substances in the marijuana extraction process.
- (2) *Type 2 Post-extraction Facility.* A facility which uses marijuana extractions to incorporate into edibles, ointments, etc., and does not use combustible gases, CO₂ or other hazardous substances.

Microbusiness Marijuana Dispensary Facility. A facility licensed by the state to acquire, process, package, store on site or off site, sell, transport to or from, and deliver marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), marijuana-infused products, and drug paraphernalia used to administer marijuana to a consumer, qualifying patient, or primary caregiver, as set forth and defined in Article XIV of the Missouri State Constitution, anywhere on the licensed property or to any address as directed by the consumer, qualifying patient, or primary caregiver and, consistent with state and local law, a microbusiness wholesale facility or a marijuana testing facility. Microbusiness marijuana dispensary facilities may receive transaction orders at the dispensary directly from the consumer in person, by phone, or via the internet, including from a third party. A microbusiness marijuana dispensary facility's authority to process marijuana shall include the creation of prerolls.

Microbusiness Wholesale Facility. A facility licensed by the state to acquire, cultivate, process, package, store on site or off site, manufacture, transport to or from, deliver, and sell marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), and marijuana-infused products to a microbusiness marijuana dispensary facility, other microbusiness wholesale facility, or marijuana testing facility. A microbusiness wholesale facility may cultivate up to 250 flowering marijuana plants at any given time. A microbusiness wholesale facility's authority to process marijuana shall include the creation of prerolls and infused prerolls.

Place of Worship. A permanent building primarily and regularly engaged in organized services for religious worship open to the public or specific conjugation of members or participants.

Preroll or Infused Preroll. A consumable or smokable marijuana product, generally consisting of:

- (1) A wrap or paper;
- (2) Dried flower, buds, and/or plant material; and
- (3) A concentrate, oil or other type of marijuana extract, either within or on the surface of the product. Infused prerolls may or may not include a filter or crutch at the base of the product.

[The following section does not reflect the ordinance that is currently under review by City Council.]

10.05 Short-term Rentals

A. Standards Applicable to All Short Term Rentals.

1. A short-term rental type 1 shall not be rented solely for receptions, parties, weddings or any similar activities.
2. The owner shall get an annual business license.
3. No exterior alterations that would change the appearance of the buildings as a dwelling unit and the character of the area considering other permitted types dwelling units, other than those necessary to ensure the safety of the structure, shall be made.
4. The owner of a short-term rental shall post, conspicuously in each rental unit the following information:
 - a. The names and contact information of the person or persons responsible for the day-to-day operations of the short-term rental;
 - b. The certificate of occupancy and business license number;
 - c. The restrictions on noise applicable under the city's noise standards, including limitations on the use of amplified sound;
 - d. Any applicable parking restrictions;
 - e. Trash collection schedule;
 - f. That the short-term rental unit may not be rented solely for receptions, parties, weddings or other similar events.
5. The owner of a license short term rental may transfer the property and the license to another person, provided the transferee completes an application with all necessary information. The transfer alone does not trigger a new certificate of occupancy.
6. It shall be a violation of this section for an owner to advertise or promote or to use a third-party intermediary to advertise or promote a short-term rental type 1 which is not in compliance with the provisions of this section.

B. Standards Applicable to Type 1 Short Term Rentals

1. *Applicability.* Type 1 Short Term Rentals are a use that:
 - a. Is located within the R-SF or R-MX1 zoning district.
 - b. Is rented for periods of less than 30 consecutive days;
 - c. Is an owner-occupied primary residence

- d Is not rented for more than 95 days in the calendar year when the owner is absent from the premises. There is no limit on number of rental days per year with the owner present on premises.
2. *Type 1 Standards.* In addition to the standards applicable to all short term rentals, STR type 1 shall:
- a. No residential structure shall be removed for parking or to expand the operation of the rental portion of the property.
 - b. No alterations that change the appearance of the property as a detached dwelling shall be permitted.
 - c. An affidavit certifying that the primary residence, legal accessory apartment or historic carriage house will not be rented for more than 95 days in a calendar year when the owner is absent from the premise.

C. Standards Applicable to Type 2 Short Term Rentals

1. *Applicability.* Type 2 Short Term Rentals are a use that:
- a. Is located within the R-SF or R-MX1 zoning district.
 - b. Is rented for periods of less than 30 consecutive days;
 - c. Is not an owner-occupied residence, legal accessory dwelling unit, and is rented for more than 95 days in a calendar year when the owner is absent from the premises
2. *Type 2 Standards.* In addition to the standards applicable to all short-term rentals and the standards applicable to STR type 1, STR type 2 shall comply with the following:
- a. A certificate of occupancy shall be obtained in association with the business license.
 - b. *Separation Requirements,*
 - (1) A STR type 2 shall be limited to no more than one STR type 2 or bed and breakfast per eight residential structures on the block face in R-SF or R-MX1 districts.
 - (2) No STR type 2 shall be permitted on a block face with fewer than four residential structures unless an appeal is granted by city council (i.e. one to three: No STR; four to eight: One STR; nine to 15: One STR; 16 to 23: Two STR).
 - (3) For purposes of this section, block face shall be defined as one side of a street, from one intersection to the next, not including alleys. Residential structures' block face shall be determined by the mailing address assigned to each.
 - c. *Permit.* A STR type 2 permit shall be required.
 - 1. Application fee. A fee of \$350.00 or as set forth in the schedule of fees, shall accompany any application and is in addition to the license and certificate of occupancy fee required by this section. The additional fee shall be for the costs of processing the application.
 - 2. Applicant(s) shall give notice and hold a neighborhood meeting according to 2.01.D. Notice shall also be posted on the property according to 2.01.F.2.
 - 3. Applicant shall submit the summary of the meeting to the PD Director within 10 days of the meeting.
 - 4. The applicant shall get a notarized affidavit of at least 55 percent of adjacent residential property owners, including those adjoining and immediately across the street, as to their knowledge of the meeting and either attendance or review of the summary. If signatures cannot be secured, the applicant may apply to the City Council for resolution of the permit.

D. Standards Applicable to Type 3 Short Term Rentals

1. *Applicability.* Type 3 Short Term Rentals are a use that:
 - a. Is not located within the R-SF or R-MX1 zoning district.
 - b. Is rented for periods of less than 30 consecutive days;
 - c. Is using all or a portion of a residential structure, and is otherwise not considered a commercial Lodging use under this chapter.

2. *Type 3 Standards.* In addition to the standards applicable to all short-term rentals, STR type 3 shall also comply with the following:
 - a. No more than two STR type 3 units are allowed on a premises
 - b. A certificate of occupancy shall be obtained in associate with the business license.

E. Enforcement.

1. The BDS director may immediately revoke or suspend a license or deny renewal of a license for failure to comply with this section, any material misrepresentation on an application or license, or any other code requirement.
2. Any revocation or suspension shall be in writing.
3. A suspension may be for a period of up to 12 months. During this time, new short-term rentals may be established by other owners which could preclude the re-establishment of the suspended use under separation requirements
4. Any enforcement action on the STR permit may be appealed to the City Council.