

**ARTICLE 6 – SUPPLEMENTARY DISTRICT REGULATIONS**

1. Height Regulations: Chimneys, cooling towers, elevator headhouses, fire towers, grain elevators, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers, spires, church steeples, and necessary mechanical appurtenances, usually required to be placed above the roof level and not intended for human occupancy, are not subject to the height limitations contained in the District Regulations. In all districts, one additional foot of height above the specified height limitation shall be permitted for each foot of additional yard provided over the minimum requirement on all sides of the lot.
  
2. Yard Regulations:
  - A. Minimum Yard Requirements: The yard requirements heretofore established shall be adjusted in the following cases:
    - (1) Where the property fronts on a collector or an arterial street, as identified in the El Dorado Comprehensive Plan, the required front yard shall be modified as follows:
      - a. Arterial Street: The front yard setback shall be measured from the centerline of the street and shall be equal to the requirement of the particular zoning district plus 50 feet.
      - b. Collector Street: The front yard setback shall be measured from the centerline of the street and shall be equal to the requirement of the particular zoning district plus 40 feet.
    - (2) Where the property fronts on two intersecting streets (a corner lot), such lot shall maintain a front yard setback on both streets, except in the following cases:
      - a. Where no lots within the same block front on one of the two intersecting streets, the side yard requirement along such street shall be 15 feet, subject to the provisions of paragraph (1)a. above.
    - (3) Double frontage lots shall maintain the required front yard setback along both frontages.
    - (4) Where 50 percent or more of the frontage on one side of a street between two intersecting streets is developed with structures that have observed a front yard greater than required, then:
      - a. Where a structure is to be erected on a parcel of land that is within 100 feet of existing structures on both sides, the minimum front yard setback shall

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be a line drawn between the two closest front corners of adjacent structures on the two sides; or,

- b. Where a structure is to be erected on a parcel of land that is within 100 feet of an existing structure on one side only, such structure may be erected as close to the street as the existing adjacent structure.

(5) The following regulations shall apply to all residential lots of record prior to the adoption of these regulations:

- a. These regulations shall not prohibit the erection of a single-family dwelling on a lot of less than 7,000 square feet where said lot was a legal lot of record at the time of the passage of Ordinance G-67 (August, 1951).
- b. These regulations shall not prohibit the erection of a single-family dwelling on a lot of less than 70 feet of frontage where said lot is under a residential zoning designation and where said lot was in existence at the time of the passage of Ordinance G-211 (November, 1965).
- c. These regulations shall not be interpreted as to reduce the buildable width of a corner lot in separate ownership at the time of the passage of Ordinance G-211 (November, 1965) to less than 35 feet.
- d. Lots which were of record prior to the passage of Ordinance G-65 (August, 1951) shall be subject to the following yard regulations:
  - Front Yard: A front yard of 30 feet shall be provided except where lots comprising 40 percent or more of the frontage, on the same side of the street between two intersecting streets are developed with structures having front yards with a variation of not more than ten feet in depth, the average of such front yards shall establish the minimum front yard depth for the remainder of the frontage, except that such front yard shall not be less than 15 feet.
  - Rear Yard: The depth of the rear yard shall be at least 25 feet.
  - Side Yard: There shall be a side yard on each side of a structure not less than ten percent of the width of the lot; except that such side yards shall not be less than five feet and need not be more than 15 feet. Structures on corner lots shall provide a side yard on the street side of not less than ten feet.

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- e. Lots which were platted or otherwise created between the passage of Ordinance G-65 (August, 1951) and the passage of Ordinance G-211 (November, 1965) shall be subject to the following yard regulations:
- Lot Area: Every single-family dwelling shall be erected on a lot of not less than 7,000 square feet.
  - Front Yard: A minimum front yard of 30 feet shall be provided.
  - Rear Yard: The depth of the rear yard shall be at least 25 feet.
  - Side Yard: There shall be a side yard on each side of a structure not less than ten percent of the width of the lot; except that such side yards shall not be less than five feet and need not be more than 15 feet. Structures on corner lots shall provide a side yard on the street side of not less than 15 feet.
- B. When lots occupied by duplexes are split into two separate lots as allowed by law, the minimum lot width for each side of the duplex shall be 35 feet, and there shall be a minimum side yard setback of 5 feet except where there is a party wall between duplexes.
3. Accessory Structures: Unless otherwise provided, no accessory structure shall be erected in any required or established front yard, or a required side yard and no detached accessory structure shall be erected closer than ten feet to the principal structure on the lot. Accessory structures may be located in the rear yard, but shall not be closer than eight feet to the rear lot line and shall not be closer to the side lot line than the required side yard setback of the district. No accessory structure shall cover more than 50 percent (50%) of the required rear yard. The following permitted accessory structures and uses shall be allowed in any zoning district in connection with any permitted principal use:
- A. A structure for storage incidental to a permitted use; provided, however, that no storage structure that is accessory to a residential building shall exceed 200 square feet in gross floor area, the use shall be in keeping with the principal structure, and no part of such structure shall be located in the front yard setback.
  - B. A child's playhouse, provided it shall not be more than 120 square feet in gross floor area, and it shall not be located in the front yard.
  - C. A detached garage or other accessory structure, no greater in gross floor area than twenty-five percent (25%) of the lot area, provided that no part of such structure exceeds 1,200 square feet in gross floor area; and shall not exceed 12 feet in height at the sidewall; provided, however, larger accessory structures may be allowed by Special Use Permit.

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- D. Private swimming pools and bathhouses must be located at least ten (10) feet from the nearest property lines.
- E. Statuary, arbors, trellises, flagpoles, fences; walls and hedges shall be allowed within the required setback areas.
- F. Signs, when permitted by these Regulations and by the individual district regulations.
- G. Off-street parking and loading spaces, as permitted by of these regulations.
- H. Restaurants, drug stores, gift shops, clubs, lounges and newsstands, when located in a permitted hotel, motel or office structure.
- I. Employee restaurants and cafeterias, when located in a permitted business, manufacturing or industrial structure.
- J. Storage or use of accessory recreational vehicles, such as boats, boat trailers, camping trailers, or converted buses or trucks; except that such uses shall not be allowed within required front yards and shall be placed upon a hard surface as defined in the off-street parking regulations. Such uses shall not include the outdoor storage or parking of commercial trucks or buses which exceed a three ton manufacturer’s rating hauling capacity in a residential district.
- K. Satellite dish antennas, except that such accessory structures shall not be allowed within established front yards.
- L. Home occupations subject to limitations set forth in Section 11 of this Article.
- M. Detached storm shelters and carports, when provided, may be located closer than ten (10) feet to the principal structure on the lot, provided the construction materials are non-combustible, as determined by the Building Official.
- N. An amateur radio antenna and any tower to support the antenna that is owned and operated by a federally-licensed amateur radio operator and used exclusively for non-commercial purposes shall be a permitted accessory use in all zoning districts, provided:
  - (1) Such shall only be located within established rear yards;
  - (2) Such shall not extend to a height exceeding twenty (20) feet beyond the roofline of the primary structure on the zoning lot;
  - (3) Such shall comply with all applicable federal, state and local regulations, including the current edition of the building code adopted by the City of El Dorado.

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4. Use Limitations of Accessory Structures: Accessory structures and uses shall comply with the use regulations applicable in the zoning district in which they are located, but no accessory structure shall be constructed and occupied on any lot prior to the time of the completion of the construction of the principal structure to which it is accessory.

No accessory structure shall be used for dwelling purposes; provided, however, that an accessory apartment may be established in an accessory structure by Special Use Permit. No more than one accessory apartment shall be allowed on a zoning lot.

5. Number of Structures and Uses on a Zoning Lot: Where a lot or tract is used for other than a single-family dwelling, more than one principal use and structure may be located upon the lot or tract, but only when the structure or structures conform to all requirements for the district in which the lot or tract is located unless otherwise approved by the Planning Commission with a Special Use Permit.

6. Sight Triangle: On a corner lot in any district, except “C-2”, development shall conform to the requirements of the sight triangle as defined by this regulation.

7. Access to Business and Industrial Districts: No land which is located in a residential district shall be used for a driveway, walkway or access to any land which is located in any business or industrial district.

8. Temporary Uses Permitted:

- A. Christmas Tree Sales: Christmas tree sales in any business or industrial district for a period not to exceed 60 days. Display of Christmas trees need not comply with the yard and setback requirements of these regulations, provided that no trees shall be displayed within 30 feet of the intersection of the curb line of any two streets.
- B. Contractor’s Office: Contractor’s office and equipment sheds (containing no sleeping or cooking accommodations) accessory to a construction project and to continue only during the duration of such project.
- C. Real Estate Office: Real estate office (containing no sleeping or cooking accommodations unless located in a model dwelling unit) incidental to a new housing development to continue only until the sale or lease of all dwelling units in the development.
- D. Seasonal Sales: Seasonal sale of farm produce grown on the premises, in an “R-S” District. Structures incidental to such sale need not comply with the applicable front yard requirements if the structures are removed or moved back of the required front yard setback line at the end of the season during which they are used.
- E. Carnivals and Circuses: A carnival or circus, but only in an “R-S”, “C-1”, “C-2”, “I-1”, or “I-2” District, and then only for a period that does not exceed three weeks. Such use need

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not comply with the front yard requirements, provided that structures or equipment which might block the view of operators of motor vehicles on the public streets shall conform to the requirements of the sight triangle as defined by these regulations.

- F. Housing: During construction of the principal residential structure, a basement, garage, camper or manufactured home may be utilized for temporary housing of full-time, regular workers for a period not to exceed six months. The Zoning Administrator may extend the period six additional months upon showing of good cause by the owner. Upon conclusion of the permitted time period or completion of the principal structure, whichever occurs first, the owner shall remove the temporary housing or make the necessary changes for the property to be in conformance with the regulations of the district in which the property is located.
  - G. Garage or Yard Sales: The sale of used or second-hand merchandise shall be permitted in any district providing that such use shall not exceed three consecutive days in duration nor shall it occur more than twice each year at any particular location.
9. Determination of Structure Setback Line: The structure setback line shall be determined by measuring the horizontal distance between the property line and the vertical plane of the furthest architectural projection of the existing or proposed structure; except that certain architectural projections listed below may extend beyond the structure setback line, subject to the following conditions:

### ALTERNATE A:

- A. Projections for new construction shall conform to the provisions of the adopted Uniform Building Code in effect at the time of application, with regard to construction details, property setbacks and public property encroachment.
- B. Projections shall be defined as: Any structural or non-structural portion or appendage attached to the main structure which by design protrudes outward beyond the structure floor; wall, roof or foundation line. Projections include, but are not limited to:
  - 1. Roof eaves
  - 2. Cornices
  - 3. Porches
  - 4. Stairs
  - 5. Bay and Egress Windows
  - 6. Dormers
  - 7. Combustible or Non Combustible Ornamentation
  - 8. Soffits
  - 9. Balconies
- C. Architectural or structural projections from structures shall be measured from the outside of the structure floor, wall, roof or foundation line, which is directly adjacent or parallel to the projection.

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### ALTERNATE B - Projections into Required Yards:

- A. Certain architectural features may project into required yards or courts as follows:
    - (1) Cornices, canopies, eaves or other architectural features may project a distance not exceeding two and one-half feet.
    - (2) Fire escapes may project a distance not exceeding four and one-half feet.
    - (3) An uncovered stair and necessary landings may project a distance not to exceed three feet; provided that such stair and landing shall not extend above the entrance floor of the structure except for a railing not exceeding four feet in height.
    - (4) Bay windows, balconies, and chimneys may project a distance not exceeding two feet; provided that such features do not occupy, in the aggregate, more than one-third of the length of the structure wall on which they are located.
  - B. Patios may be located in side and rear yards; provided further, that they are not closer than three feet to any adjacent property line.
  - C. Fences, walls and hedges may be located in required yards as follows:
    - (1) Shall not exceed six (6) feet in height above the adjacent surface, provided that on a corner lot, no such fence, wall or hedge shall be erected, placed or maintained within five (5) feet of the side street lot line.
    - (2) On any corner lot, no fence, wall, hedge, structure or planting shall be erected, placed, or maintained in conflict the sight triangle requirements of these regulations.
10. Fences: Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences:
- A. Fencing for safety purposes shall be required wherever dwellings or manufactured homes are built or installed on lots abutting major streets as defined in these regulations or railroad right-of-way.
  - B. No fence shall be constructed which will constitute a traffic hazard.
  - C. No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals.

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- D. No person shall erect or maintain any fence which will materially damage the adjacent property by obstructing the view, shutting out the sunlight or hindering ventilation, or which fence shall adversely affect the public health, safety and welfare.
- E. No fence except fences erected upon public or parochial school grounds or in public parks and in public playgrounds shall be constructed of a height greater than three feet in the front yard; or six feet elsewhere; provided, however, that the Planning Commission may, as a special use, authorize the construction of a fence no higher than eight feet if the Planning Commission finds the public welfare is served.
  - (1) In residential districts, no fence shall be erected in the front yard except as follows:
    - a. Ornamental fencing using split rails, ornamental iron, vinyl, brick or stone, or wood pickets, excluding chain link, and not more than three (3) feet in height provided it does not become a sight obstruction.
    - b. Such fences shall have no more than fifty (50) percent opacity calculated over the entire length of the fence which shall be uniform in construction (50% of the surface perforated or transparent when viewed from a ninety (90) degree angle).
- F. The following fencing shall be prohibited from use as perimeter fencing in residential developments.
  - (1) Fencing materials of a temporary or short-lived nature such as safety fencing, snow fencing, “T post” construction, netting or other similar fencing as determined by the Planning and Zoning Department;
  - (2) Chain link fencing with installed slats of vinyl or similar material; and
  - (3) Barbed wire, razor wire or other material that is determined to pose a safety concern as determined by the Planning and Zoning Department.
- G. No fencing shall be constructed beyond platted lot lines. For unplatted property, no fence shall be constructed within fifteen (15) feet of any street right-of-way.
- H. All fences shall be constructed with the finished side facing outward from the property. The posts and support beams shall be on the inside or shall be designed as an integral part of the finished surface.
- I. A permit to install or modify a fence shall be obtained from the Codes Administrator. Pre-existing, nonconforming fences shall not be replaced or repaired unless it will be constructed to come into compliance with these regulations.

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

A. Restrictions and Limitations:

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

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

- (1) Art, dancing, and music schools provided that instruction is limited to five pupils at one time.

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

12. Swimming Pools:

- A. Shall be located at least ten feet from the nearest property line.
- B. An enclosure shall be provided in accordance with the current edition of the building code adopted by the City of El Dorado.

13. Landscaping, Screening and Buffering Regulations:

- A. Intent and Purpose: It is the intent and purpose of this article to establish minimum landscaping, screening, and buffering requirements for new development within the jurisdiction of the City of El Dorado Zoning Ordinance.
- B. Applicability: Landscaping, screening and buffering, as required in this article, shall be provided for all new development, except as specifically exempted in Section 3 of this article.
- C. Exemptions: Improvements or repairs to existing development that do not result in an increase in floor area and changes in use that do not result in an increase in intensity shall be exempt from the regulations of this article.
- D. Transition Buffer General Provisions:
  - (1) Location of Buffers. Transition buffers shall be located along those portions of a site adjoining lots with a different zoning classification.
  - (2) Responsibility for Installing Buffers. The developing property shall always be responsible for providing required buffers.
- E. Transition Buffer Specifications: When a transition buffer is required by this code, such transition buffer shall consist of a planting screen meeting the specifications herein. A landscaped berm or a fence screen meeting the specifications herein may be used in lieu of such planting screen if an exception for such substitution is granted by the Planning Commission.
  - (1) Planting Screens. Planting screens shall consist of trees, bushes or shrubs of a variety and so planted and kept as to be achieved within thirty-six (36) months after occupancy of the premises to be screened.
    - a. Such screen shall have a minimum height of six (6) feet above grade at any particular point along its length.



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- c. Determine if a transition buffer is required by crossing the previously identified proposed zoning with the adjacent zoning. The letter “R” indicates that a transition buffer is required, otherwise, no transition buffer is required.
- (2) **Street Trees:** One (1) street tree per every forty (40) lineal feet of street frontage shall be required. Street trees shall be installed outside the required right-of-way. Trees shall be placed at fairly even intervals to create a uniform “street tree” appearance along the street frontage. Street trees shall be spaced at fairly even intervals, with the exception of allowances to accommodate physical obstructions such as the location of utilities and driveways. Street trees shall not be located within intersection site triangles as defined by these regulations.

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

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### (3) Transition Buffer Requirements.

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

G. Landscaping Plans: Required landscaping, screening and buffering shall be shown on the required site plans, building plans or as an attached landscape plan or plot. These plans shall include material type, quantity, location, size and dimension

H. Exterior Storage: Except as otherwise permitted by these regulations or during permitted construction on any tract, all exterior storage of equipment, raw materials or finished products shall be fully screened from the view of adjacent parcels and streets by a solid screen fence at least six (6) feet in height. Storage within I-1 Industrial - Light or I-2 Industrial - Heavy District shall be exempt from screening of exterior storage visible from abutting local streets as classified by the Comprehensive Plan.

Screening and enclosure required for permitted outdoor storage shall be by means of a fence, wall or berm, in combination with landscaping, designed to create a minimum of seventy-five (75) percent opacity. Crates, boxes, trailers or other temporary storage facilities shall not be considered appropriate screening materials. Outdoor storage shall not interfere with the required and/or approved operation of the site, including but not limited to traffic circulation, parking and open space.

Exterior Display of Merchandise for Sale: No merchandise or equipment may be displayed outside a building unless located within an outdoor display confinement area

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not to exceed thirty percent (30%) of the ground floor area of the building or tenant space. In no case shall merchandise for sale be displayed in any required parking area, or interfere with vehicular access or parking or pedestrian circulation. The following are exceptions to this provision.

- (1) Daily sidewalk sales and temporary displays, not to exceed one hundred fifty (150) square feet in area or thirty percent (30%) of the ground floor area of the building or tenant space, whichever is less, shall be permitted on sidewalk areas immediately adjacent to the business during business hours. All such merchandise and display shall be temporary in nature and shall be moved inside the business after business hours.
- (2) Outdoor display of landscape plantings, materials and supplies, and lawn and garden supplies (as accessory sales for businesses with other commercial activities) are subject to the following:
  - a. Seasonal landscape plantings may be displayed outside of an outdoor display confinement area on a seasonal basis upon approval of a temporary sales and events permit. Plantings shall be kept off the public sidewalks and streets, shall not reduce the capacity of a parking lot below that required by these Regulations, and shall not hinder the movement of pedestrians on any sidewalk around the building.
  - b. Landscape materials and lawn and garden supplies are required to be located within an outdoor display confinement area. However, such materials and supplies may be displayed outside of an outdoor display confinement area on a seasonal basis upon approval of a temporary sales and events permit. Materials and supplies shall be kept off the public sidewalks and streets, shall not reduce the capacity of a parking lot below that required by these Regulations, and shall not hinder the movement of pedestrians on any sidewalk around the building.
- (3) Outdoor display and storage of landscape plantings, materials and supplies, and lawn and garden supplies associated with retail nurseries and/or lawn and garden supply stores (stand alone developments not associated with other commercial activities) and not located within an outdoor display confinement area may be permitted on a permanent basis with a Special Use Permit obtained pursuant to the provisions of these Regulations.
- (4) Outdoor display of motor vehicles, recreational vehicles including but not limited to boats, jet skis and travel trailers, manufactured homes and/or farm machinery and equipment for sale on licensed sales lots (where applicable) shall be permitted to utilize the lot to the maximum extent; provided all displays are kept

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off the public sidewalks and streets, shall not reduce the capacity of a parking lot below that required by these Regulations, and shall not hinder the movement of pedestrians.

- I. Refuse: Except during permitted construction on any tract, all waste materials, debris, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes, and located on a paved surface designed for adequate vehicle and removal equipment access and operation. Containers shall be screened from view from adjacent parcels and any streets. Unless the container is contained within the building until time of collection, screening shall be provided by dense landscaping, landforms, by housing the container in a refuse enclosure at least as tall as the container, or a combination thereof. This screen shall provide complete visual screening of the dumpster and be compatible in material and color with the principal structure on the lot.

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

### 14. Wireless Communication Facilities:

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

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

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

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

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

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

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

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

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

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

**Co-location.** The use of a common wireless communication facility or common site by two or more carriers or by one carrier for more than one type of wireless communication technology and/or placement of two or more wireless communication facilities on adjacent properties.

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

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

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

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

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

**Elevation.** The measurement of height above sea level or AMSL (above mean sea level).

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

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

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

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

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

**International Mobile Telecommunications - 2000 (3G).** A family of standards for wireless communications defined by the International Telecommunication Union, which includes wide-area wireless voice telephone, video calls, and wireless data, all in a mobile environment.

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

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

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

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

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

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

**Personal Wireless Services.** Any personal wireless service defined in the Federal Telecommunications Act of 1996 which includes Federal Communications Commission (FCC) licensed commercial wireless telecommunications services including cellular, personal communications services (PCS), 3G, specialized mobile radio (SMR), enhanced

specialized mobile radio (ESMR), paging and unlicensed wireless services, and common carrier wireless exchange access services.

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

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

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

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

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

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

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

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

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

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

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

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

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

Ground-mounted. Mounted on the ground.

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

**Tower.** Generally used to describe all wireless communication facilities or sometimes is

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

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

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

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

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

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

B. Location/Height Guidelines:

- (1) The following wireless communication facilities are permitted only as indicated , subject to the issuance of a building permit.
  - a. In any zoning district, new facilities that are concealed in or mounted on top of or the side of existing buildings (excluding single-family and two-family residences) and other structures, including support structures up to 20 feet above the building or the maximum height are permitted in the underlying zoning district, whichever is greater. All such facilities located in the C-2 zoning district shall be disguised.
  - b. Modification and/or replacement of support structures (light poles, flag poles, electrical poles, private dispatch towers, etc.) that are not significantly more visible or intrusive, including cumulative height

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extensions of up to 25 percent above the original structure height, to a maximum of 65 feet in residential districts, 85 feet in commercial districts and 150 feet in industrial districts.

- c. Modifications to previously permitted ground-mounted towers no larger than 18 inches wide on any side up to 80 feet in height measured from grade.
  - d. New disguised ground-mounted facilities up to 85 feet in height, except in the C-2 zoning district, are allowed by Special Use Permit.
  - e. New undisguised monopole facilities up to 65 feet in height in any Residential District by Special Use Permit.
  - f. New undisguised monopole facilities up to 85 feet in height in the C-1 or O-I zoning districts by Special Use Permit.
  - g. New ground-mounted facilities up to 150 feet in height in the I-1 or I-2 zoning districts by right.
  - h. If the Zoning Administrator determines that the wireless communication facility does not conform to the Location/Design Guidelines, the building permit should be denied. Denied building permits may be appealed by applying for a variance.
- (2) All ground-mounted towers shall be set back from the all property lines a distance equal to or greater than the height of the proposed structure. If substantiated by a licensed engineer, the setback may be equal to the maximum distance the structure is designed to fall, as measured from the center of the structure.
- (3) There shall be no nighttime or strobe lighting of or on wireless communication facilities except for aircraft warning lights or similar emergency warning lights required by applicable governmental agencies. Flashing white obstruction lights shall not be permitted for nighttime operation. Lighting for security purposes should be permitted at the base of wireless communication facilities. Temporary lighting for nighttime repairs is permitted.
- (4) No signs shall be allowed on an antenna support structure other than those required by applicable governmental agencies.

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- (5) At the time of requesting a Permit for a new ground-mounted wireless communication facility, the applicant shall demonstrate to the satisfaction of the approving authority that:
  - a. There is no available space on existing or approved wireless communication facilities or other structures that can be utilized to meet the applicant’s communication needs; and
  - b. There is no other technically feasible opportunity to modify or rebuild an existing structure on which the communication equipment may be located.
  
- (6) At the time of requesting Permit for a wireless communication facility, the owner of a proposed new undisguised ground-mounted wireless communication facility, and the owner of the land, if not the same, shall certify in correspondence submitted with the permit, that:
  - a. The support structure is designed, and the ground area is adequate or can be made adequate, to accommodate at least one (1) other carrier, if more than eighty (80) feet in height, and at least two (2) other carriers, if more than 100 feet in height. Lattice towers no larger than 18 inches on any side are excluded from the co-location requirements;
  - b. Reasonable accommodations will be made to lease space on the facility to other carrier so as to avoid having a proliferation of support structures that are not fully utilized; and
  - c. The owner(s) will make available in the future the opportunity for another party to pay the cost to modify or rebuild the structure to support additional communication equipment where technically feasible.
  
- a. No wireless communication facilities shall remain unused for any period greater than twelve (12) consecutive months.
  - a. The owner shall be responsible for the removal of unused facilities, including the uppermost 20% of support structures that are unused (except where removal of the uppermost 20% would require the removal of a lower portion the support structure that is in use, in which case the required removal will be raised to the next highest portion of the support structure not in use, within 60 days if the wireless communication facility, or a portion thereof.

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- b. If such a facility or portion of a facility is not removed by the owner, then the City may employ all legal measures, including, if necessary, obtaining authorization from a court of competent jurisdiction, to remove it, and after removal may place a lien on the subject property for all direct and indirect costs incurred in its dismantling and disposal, including court costs and reasonable attorney fees. Under this paragraph, “owner” includes both the owner of the real property and the owner of the wireless communication facility, whether such ownership is divided or in the same person.
  - c. New support structures shall not be located in the flight paths of local airports where they would constitute a potential hazard to air safety.
  - d. All wireless communication facilities shall comply with all federal, state, and local rules and regulations. Wireless communication providers are particularly encouraged to seek the following new locations for new facilities:
    - a. Mounted on top or the side of multistory buildings and other structures, appropriately concealed, screened, disguised or camouflaged.
    - b. On existing poles in street rights of way, including telephone poles, electrical transmission and distribution poles, street lights, and traffic signal stanchions; on existing parking lot and athletic field/stadium light standards; and on modified or rebuilt poles that are substantially similar in appearance.
    - c. On existing support structures, including those constructed for personal wireless services, AM/FM radio and television broadcast, school district microwave antennas and private dispatch systems.
    - d. In wooded areas.
    - e. At certain City owned properties, where the size and nature of the use does not interfere with other functions and allows for compatible siting; these may include water towers, large park areas, sewer treatment plant sites and maintenance yards.
- C. Design Guidelines

The visibility of facilities shall be minimized by techniques such as concealment, disguise, camouflage, and sensitive design and siting. Economic infeasibility shall not be a cause for waiver from any design guideline. Except as proven by the owner(s) to be technically unfeasible, all facilities approved must meet the following specific guidelines:

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

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

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

### D. Submittal Requirements

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

#### (1) General:

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

#### (2) Siting and design:

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

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### 15. Body Art Studios:

- A. Shall be wholly located within an enclosed building.
- B. No body art activities (tattooing, body piercings, etc.) shall be viewable from waiting/reception areas or outside the premises wherein such activities take place.
- C. Shall not be located within 250 feet of a place of worship, educational institution, public park, residential zoning district or any business licensed to serve alcoholic or cereal malt beverages on premises. This distance is to be measured from the property line of the body art studio to the nearest property line of the place of worship, educational institution, public park, residential zoning district or any business licensed to serve alcoholic or cereal malt beverages on premises.

### 16. Restaurant, Drive-Through:

- A. Shall only be allowed adjacent to streets designated as arterials by the Comprehensive Plan and shall have arterial frontage, ingress and egress. However, secondary access may be provided on streets designated as locals or collectors by the Comprehensive Plan.
- B. Shall provide adequate on-site traffic circulation and vehicle storage as determined by the City Engineer.
- C. Shall provide at least one designated crosswalk across each drive-through lane, which shall marked consistent with recognized traffic engineering standards as determined by the City Engineer.
- D. Shall provide a screening fence or wall at least six (6) feet in height along each property line abutting any residential zoning district. Such screening shall be no less than ninety-five percent (95%) opaque as determined by the Zoning Administrator.
- E. Lights shall be shielded to reflect or direct light away from adjacent properties.

### 17. Car Washes:

- A. Shall only be allowed by Special Use Permit when adjacent to any residential zoning district.
- B. Shall provide a minimum fifty (50) foot setback along property lines adjacent to residential zoning districts.
- C. Shall not locate vacuum cleaning apparatus within any required residential setback area.

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- D. Shall provide a screening fence or wall at least six (6) feet in height along each property line abutting any residential zoning district. Such screening shall be no less than ninety-five percent (95%) opaque as determined by the Zoning Administrator.
- E. Lights shall be shielded to reflect or direct light away from adjacent properties.

### 18. Truck Stops/Truck Washes:

- A. Shall only be allowed by Special Use Permit when adjacent to any residential zoning district.
- B. Shall provide a minimum fifty (50) foot setback along property lines adjacent to residential zoning districts.
- C. Shall be located on a zoning lot no less than five (5) acres in size for truck stops or one acre is size for truck washes.
- D. Shall provide a screening fence or wall at least six (6) feet in height along each property line abutting any residential zoning district. Such screening shall be no less than ninety-five percent (95%) opaque as determined by the Zoning Administrator.
- E. Lights shall be shielded to reflect or direct light away from adjacent properties.
- F. Shall only be allowed adjacent to streets designated as arterials by the Comprehensive Plan and shall have arterial frontage, ingress and egress. However, no more than one truck stop shall be located at any one arterial intersection.

### 19. Vehicle and Equipment Sales:

- A. Shall only be allowed adjacent to streets designated as arterials by the Comprehensive Plan and shall have arterial frontage, ingress and egress. However, secondary access may be provided on streets designated as locals or collectors by the Comprehensive Plan.
- B. All areas for parking, storage and display of vehicles and equipment shall be paved in accordance with City development standards. However, manufactured home sales lots and heavy equipment sales lots are exempt from this requirement as applied to storage and display areas.

### 20. Salvage Yards:

- A. Shall not be located adjacent to a State Highway, U.S. Highway or arterial street as designated by the Comprehensive Plan.

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- B. Shall provide a screening fence or wall at least eight (8) feet in height along each property line abutting any residential zoning district. Such screening shall be no less than ninety-five percent (95%) opaque as determined by the Zoning Administrator.
- C. Shall not be approved if, in the opinion of the City Commission, such use will adversely affect the character of the surrounding neighborhood or have a negative impact on surrounding property values.

### 21. Adult Entertainment Establishments:

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

***Adult Bookstore, Adult Novelty Store or Adult Video Store.*** An establishment, which as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes, or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas (as defined herein); or
- (2) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas.

***Adult Dance Club.*** A commercial establishment that regularly features:

- (1) Persons who appear in a state of nudity or semi-nudity; or
- (2) Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.

***Adult Hotel.*** A hotel or motel wherein a substantial or significant portion of the material presented over image-producing devices within individual rooms that are occupied by guests, are distinguished or characterized by an emphasis on matter depicting or describing specified sexual activities or specified anatomical areas.

***Adult Motion Picture Arcade.*** Any place at which slug or coin operated, electronically or mechanically controlled, still or motion picture machines, projector or other image

producing devices are maintained to show images to five or fewer persons per machine at any time, and which presents material which is distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas for observation by patrons therein. The terms do not include an adult hotel as defined above.

***Adult Motion Picture Theater.*** An enclosed building designed for five or more patrons used for presenting any material distinguished or characterized by an emphasis on matters depicting, or relating to specified sexual activities or specified anatomical areas for observation of patrons therein. The term does not include an adult hotel as defined above.

***Specific Sexual Activities.*** Means the following:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy;
- (3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts with the intent to arouse or gratify the sexual desires of another individual.

***Specified Anatomical Areas.*** Less than completely and opaquely covered;

- (1) Human genitals, pubic region;
- (2) Anal cleft or cleavage of the buttocks; and female breasts below a point immediately above the top of the areola;
- (3) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

B. In addition to other applicable requirements of these regulations, the following shall apply:

- (1) Adult entertainment establishments shall be wholly located within an enclosed building.
- (2) No specified sexual activities or specified anatomical areas shall be viewable from waiting/reception/foyer areas or outside the licensed premises.
- (3) Adult entertainment establishments shall not be located within one-thousand (1,000) feet of any of the following existing land uses:
  - Place of religious worship
  - Public or Parochial School
  - Licensed Day Care or Nursery School
  - Public Park or Public Library
  - Residential Zoning District (RS, R-1, R-2, or R-3)
  - Other Licensed Adult Entertainment Establishment
  - Licensed Bar, Tavern, Night Club or Liquor Store

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This distance is to be measured from the nearest property line of the Adult Entertainment Establishment to the nearest property line of any of the abovementioned land uses.

(4) Permitted signs for adult entertainment establishments shall not include any images or words depicting specified sexual activities or specified anatomical areas.

C. Any existing Adult Entertainment Establishment within the zoning jurisdiction of the City of El Dorado, which is found to be in noncompliance with the requirements of this section upon the adoption of these regulations, shall be required to become compliant by July 1, 2011.