

Chapter 3. ADDITIONAL USE STANDARDS

3.1 Purpose and Intent

There are certain uses that exist which may be constructed, continued, and/or expanded provided they meet certain mitigating conditions specific to their design and/or

operation. Such conditions ensure compatibility among building types so that different uses may be located in proximity to one another without adverse effects to either. This Chapter specifies those requirements that shall be met by all the uses listed in the Uses Permitted with Additional Standards and Special Uses sections for each District in Chapter 2.

Each use shall be permitted upon compliance with all conditions listed for the use in this chapter. Certain uses are classified as *Special Uses* and require a Special Use Permit and City Council approval in accordance with Section 15.17.

3.1 Purpose and Intent
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3.2 Applicability

The regulations contained in this Chapter shall be applicable in those districts within which such uses are permitted.

3.3 Additional Standards by Use

A. Adult Establishments – *For HB only*

The purpose of this special exception shall be to permit the location of adult establishments within a commercial or industrial district of the city provided the proposed business adheres to the guidelines established herein.

Because of their very nature, adult establishments are recognized as having serious objectionable operational characteristics, particularly when they are located near a residential zoning district or certain existing land uses. Special regulation of these establishments is necessary to insure that these adverse effects will not contribute to a downgrading or blighting of surrounding residential districts or neighborhoods, unless otherwise determined by this Section.

1. **Location Standards:** No portion of a lot for an adult establishment may be located within a 1000-foot radius (determined by a straight line and not street distance) of any place of worship, school (public or private), specialty school, day care facility, public park, college or university, nursing home, hospital or any residential zoning district. No portion of the lot on which the adult establishment is located shall be situated within 1000 feet of another adult establishment.

2. **General Standards:**

- a. The owner/operator of the adult establishment must have a current, valid business license. Owner/operator and employees must make disclosure of criminal record and consent to a criminal records check. Persons with a record of sex offenses will be denied a business license or employment.
- b. The owner/operator shall be in full compliance with Article II, Chapter 42, of the Salisbury City Code.
- c. All patrons and their employees shall be at least 21 years of age.
- d. There shall be no more than one adult establishment business in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any adult establishment business.
- e. The structure in which the adult establishment is located shall contain no sleeping quarters.
- f. The adult establishment shall not be open for business between the hours of 12:00 midnight and 12:00 noon. The establishment shall be closed on Sundays.
- g. If dancers are employed as a feature of the adult establishment, the performing areas for such dancers shall be separated from patrons by at least ten feet.
- h. If viewing booths are provided, such are to be designed so as to allow the person of occupants to be completely visible from a portion of the premises open and available to the public.
- i. The applicant shall propose and implement a site-lighting plan adequate to ensure public safety.
- j. An adult establishment may be advertised by one (1) sign on the premises, which shall be sized and illuminated in compliance with Chapter 12. Printed material, video, photograph, written text, live show, or other visual presentation format shall not be visible from outside the walls of the establishment, nor shall any live or recorded voices, music, or sounds be heard from outside the walls of the establishment.

3. **Board of Adjustment Actions**

- a. **Variances:** The Board of Adjustment may vary the radius requirements as stated in Subsection 3.3.A.1. above when it finds that:
 - Practical difficulties or unnecessary hardships would result from the strict enforcement of the radius requirements; and
 - The proposed use will not be injurious to property or improvements in the affected area; and

- The proposed use will not enlarge or encourage the development of a blighted condition within an area; and
 - The permitting of an adult establishment in the area will not be contrary to any governmental program of neighborhood conservation, rehabilitation, improvement, or revitalization; and that all of the conditions in Section 15.16.C have been met.
- b. **Revocation of Zoning Permits:** The Board of Adjustment may revoke the Zoning Permit, after notice and hearing upon one or more of the following grounds:
- Failure to comply with the aforementioned standards.
 - Employment of any person under the age of 21 years of age.
 - Operating an establishment disruptive of peace and good order as evidence by lack of sufficient on-premises security and specifically by a conviction of a criminal offense, a material element of which occurred on the premises of the adult establishment.
 - Admittance of patrons younger than 21 years of age.
 - Excessive criminal activity on or near the premises if the Board of Adjustment finds that the operation of the adult establishment is related to such criminal activity or attracts transients or other persons who have been involved or are likely to be involved in such criminal activity.
- B. Alcohol Beverage Sales Store – *For NMX & HS only***
1. Such uses shall not be located within a minimum of 500 feet of lots in use with schools, churches, hospital, and day care centers.
- C. Animal Services – *For RR & UR only***
1. No outdoor kennel shall be located within five hundred (500) feet of any residence.
 2. All open exercise, boarding, training or similar areas shall be designed to effectively buffer noise audible to surrounding properties and enclosed by a fence or wall no less than six (6) feet in height and screened from any residence or off-site view from a public street by a Type A planting yard with a minimum width of 10 feet.
 3. Hours of operation for the outdoor exercise facility are limited from 7:00 a.m. to 9:00 p.m.
 4. No more than 30% of the gross floor area of the principal structure is permitted for use of boarding animals.

D. Bar/Tavern/Night Club – *For NMX, CMX, DMX, & HB only*

1. No such facility shall be located within five hundred (500) feet of any lot containing a school.

E. Campground – *For All Districts*

1. **Size:** Minimum of three (3) acres; maximum of 10 acres
2. **Density:** Maximum of 10 campsites per acre
3. **Minimum space requirements:**
 - a. Each space shall consist of at least 2,000 square feet
 - b. Each space shall be designated on the ground by permanent markers
4. **Minimum setbacks for campsites and accessory structures:**
 - a. 100 feet from any adjoining property line
 - b. 50 feet from any public street right-of-way
5. **Minimum setbacks for recreational vehicles (or travel trailers):** Setbacks shall be at least 10 feet from each other or from accessory structures, such as attached awnings or carports, or individual storage facilities.
6. **Access to the site:** Access shall be provided by a Major or Minor Thoroughfare
7. **Interior drives:**
 - a. Each campsite shall abut an interior drive
 - b. A minimum of 18 feet in width for two-way travel; a minimum of 12 feet in width for one-way travel
 - c. Paved or consist of a minimum of six-inch compacted gravel
 - d. No parking on either side
8. **Parking:** An all-weather surface area, such as pavement or gravel, with sufficient dimensions to accommodate at least one automobile and camping vehicle shall be constructed within each site
9. **Walkways:** Sidewalks and other walkways within the campground area shall be at least four feet in width with an all-weather surface, such as pavement or gravel. Nature trails are not required to have all-weather surfaces
10. **Unpaved Areas:** All unpaved areas within the campground shall have vegetative ground cover adequate to prevent erosion and dust

11. **Trees:** At least one tree shall be provided for each two camping spaces.
12. **Recreation area:**
 - a. In all campgrounds, there shall be at least one recreation area that shall be easily accessible to all spaces
 - b. The size of such area shall not be less than eight percent (8%) of the gross site area
13. **Planting yards:**
 - a. Adjoining residentially zoned properties: Type-C planting yard, with Complete Visual Separation
 - b. Adjoining non-residentially zoned properties: Type-B planting yard
14. **Trash collection areas:** All trash collection areas shall be completely screened from view at any public right-of-way or property line.
15. **Utilities:**
 - a. All utilities shall be located underground
 - b. The installation, alteration, or use of all utilities including, but not limited to, electrical service, plumbing fixtures, and sewage disposal systems shall conform to all applicable codes
 - c. Each park shall obtain water from a municipal water supply when available and, when unavailable, from a source approved by the county health department. The water supply and pressure shall be adequate for the park requirements
16. **Signage:** Signage shall be in accordance with the Residential Sign Table in Section 12.6.
17. **Maximum length of stay:**
 - a. 30 consecutive days
 - b. 90 days per calendar year
18. **Employee(s):** Each campground shall provide at least one full-time attendant.
19. **Manufactured dwellings:** It shall be unlawful for a person to park or store a manufactured dwelling in a campground, except that one manufactured dwelling may be located within the park for exclusive use by the park manager or operator. This manufactured dwelling shall be located in an area designated on the site plan and approved by reviewing boards.

20. Accessory uses:

- a. The park may contain laundry facilities, a retail sales counter and/or coin-operated machines, provided they are enclosed within a structure and there is no exterior advertising

F. Cemetery – For RR, RMX, ~~and~~ NMX only

- 1. Embalming or cremation facilities (principal or accessory use) are prohibited except where permitted by right
- 2. Setbacks from all street rights-of-way and adjacent properties to a grave shall be a minimum of 10 feet

G. Child Care Home – For OSP, RR, GR, UR, HR, RMX, NMX, CMX, DMX, HB, HS, IC, MHD, and TND

- 1. These facilities shall be developed and maintained in accordance with all current and applicable provisions of the N.C. Department of Health & Human Services

H. Child Care Center in Residence – For OSP, RR, GR, UR, HR, RMX, NMX, CMX, DMX, HB, HS, IC, MHD, and TND

- 1. These facilities shall be developed and maintained in accordance with all current and applicable provisions of the N.C. Department of Health & Human Services
- 2. A minimum of 100-square feet per child of gross heated area shall be provided per facility

I. Commercial Child Care Center – For RMX, NMX, CMX, DMX, HB, HS, IC, and TND

- 1. These facilities shall be developed and maintained in accordance with all current and applicable provisions of the N.C. Department of Health & Human Services

J. Drive-Thru Service – For RMX, NMX, DMX, ~~and~~ TND only

- 1. Drive-through windows and services shall be located and accessed at the rear or interior side of the building
- 2. Vehicle storage for drive-through uses shall be located outside of and physically separated from the right-of-way of any street
- 3. Drive-through facilities shall be screened from off-site view or from a street right of way by a Type-A planting yard with a minimum width of 10 ft.

K. Dwelling – Multifamily 4 units/bldg. or less – For HR only

- 1. Up to four (4) units per building, or less, are permitted only when the structure was originally constructed to contain such multiple units

L. Dwelling – Secondary – For RR, GR, UR, HR, & RMX only

Secondary dwelling units within single-family houses or on single-family lots shall be encouraged and designed to meet housing needs.

1. The accessory dwelling unit shall be subordinate to the primary living quarters.
2. Not more than one (1) secondary dwelling unit is permitted per lot.
3. Any secondary dwelling unit shall be located in the rear yard of a single-family use lot subject to the requirements of this Section.
4. Secondary dwelling units may be created as a second story within detached garages provided that the height of the secondary dwelling unit and/or garage does not exceed the height of the principal structure on the lot. There shall be a two (2)-story height maximum.
5. The secondary dwelling unit may not be larger than fifty (50) percent of the gross floor area of the principal structure with a minimum habitable area of not less than 300 square feet. Maximum building footprint for a secondary dwelling unit shall be 750 square feet.
6. No additional parking spaces are required for the secondary dwelling unit provided the number of spaces for the principal structure (per Chapter 10) is satisfied.
7. Secondary dwelling units shall be architecturally compatible to the principal building (e.g. pitch of roof, wall or trim materials, architecture style, window details).
8. The property owner(s) on which the accessory dwelling unit is to be located shall occupy at least one (1) of the dwelling units on the premises (GR, UR, & HR only).

M. Equipment Rental – For DMX only

1. Outside storage of rental equipment is prohibited.

N. Gas Station – For All Applicable Districts

1. Fuel Pump and Canopy Siting: Notwithstanding district location, excessively large or tall canopies are prohibited. All canopies shall be sized to accommodate general coverage from the elements and tall enough to accommodate a 14-foot commercial motor vehicle.
 - a. DMX, TND: Fuel pumps and canopies are prohibited in the front and side yards and are limited to the rear yard

- b. NMX, CMX: A maximum of two (2) pumps (allowing up to four (4) fueling spots), including canopies, may be located in the front yard. Any additional pumps and canopies shall be located in the side or rear yards, except that pumps and canopies are prohibited in a side yard that is adjacent to the OSP, RMX, or any Residential district.
 - c. HB, LI: Fuel pumps and canopies may be located in any yard
 - 2. Required Vehicle and Bicycle Parking provisions of Chapter 10, Parking, Section 10.3, shall apply to the associated convenience store or staffed pay station and are not applicable for the fuel pump areas or unmanned stations.
 - 3. Lighting provided by canopies shall be per the specifications of Chapter 11, Lighting on Private Property
- O. General Retail – 3,500 square feet or less – *For RMX & NMX only***
 - 1. Alcohol sales shall require a Special Use Permit
- P. General Retail - Greater than 50,000 square feet – *For All Districts***
 - 1. **Traffic Study Required:** Development greater than 50,000-sf in gross floor area shall require the submission of a Traffic Impact Analysis in accordance with Section 16.13. The improvements recommended by the study shall be constructed by the applicant as a condition of approval.
- Q. Group Care Facility (More than 6 residents) – *For All Districts***
 - 1. Any structure used for such facility in the UR or RMX district shall maintain an appearance of a residence, which is compatible with the surrounding neighborhood.
 - 2. These facilities shall be developed and maintained in accordance with all current and applicable provisions of the N.C. Department of Health & Human Services.
- R. Home Occupation – *For OSP, RR, GR, UR, HR, RMX, HS, IC, MHD & TND***

Unless expressly and separately regulated elsewhere in this Ordinance, a home occupation is permitted as an accessory to a dwelling unit in accordance with the following provisions:

- 1. Home occupations shall be limited to the following uses in the following districts:
 - a. OSP, RR:
 - (1) Domesticated or farm-related animal husbandry, including kennels (domesticated: min. 1 acre; farm-related: min. 3 acres)
 - (2) Financial and professional services
 - (3) Studio, such as arts, martial arts, yoga

- (4) Vehicle services: minor maintenance and repair (min. 1 acre)
 - (5) Indoor/outdoor recreation facility (min. 3 acres)
 - (6) Fabrication, machine, or welding shop (min. 3 acres)
 - (7) Neighborhood manufacturing
- b. GR, MHD, RMX:
- (1) Domesticated animal husbandry (min. 1 acre)
 - (2) Financial and professional services
 - (3) Studio, such as arts, martial arts, yoga
 - (4) Neighborhood manufacturing
- c. UR, HR, HS, IC, TND:
- (1) Financial and professional services
 - (2) Studio, such as arts, martial arts, yoga
 - (3) Neighborhood manufacturing
2. Except in the OSP and RR districts, the home occupation shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling.
3. For all districts other than OSP or RR, a maximum of one (1) non-resident employee, contracted or otherwise employed, is permitted at the home during allowed operating hours. Other non-resident employees, contracted or otherwise employed, are prohibited from parking personal vehicles on-site and prohibited from congregating on the subject property during allowed operating hours. In the OSP and RR districts, a maximum of five (5) non-resident employees, contracted or otherwise employed, are permitted at the home during allowed operating hours. Other non-resident employees, contracted or otherwise employed, are prohibited from parking personal vehicles on-site and prohibited from congregating on the subject property during allowed operating hours.
4. The use shall not be open to the public, or any customer, before 8:00 a.m. or after 6:00 p.m.
5. Pursuant to the American National Standards Institute (ANSI) definition of “gross living area,” a single home occupation conducted within the dwelling (excluding a finished or unfinished basement or accessory structures) shall occupy no more than 300 square feet of gross living area, while more than one home occupation shall occupy no more than 30 percent or more than 500 square feet (whichever is less) of gross living area of the dwelling.

6. Except for equipment or materials of a type and quantity that could reasonably be associated with the principal residential use, outdoor open storage of home occupation elements (including but not limited to tools, products, machinery, materials, and waste) in the GR, UR, HR, HS, or TND districts shall be prohibited in any yard. Except for equipment or materials of a type and quantity that could reasonably be associated with the principal residential use, outdoor open storage of home occupation elements (including but not limited to tools, products, machinery, materials, and waste) in the RMX, IC, or MHD districts may be provided in the rear yard subject to providing Complete Visual Separation, as defined in the Landscaping chapter of this Ordinance, from any street or adjacent residential property. Except for equipment or materials of a type and quantity that could reasonably be associated with the principal residential use, outdoor open storage of home occupation elements (including but not limited to tools, products, machinery, materials, and waste) in the OSP and RR districts may be provided in any yard subject to providing Complete Visual Separation, as defined in the Landscaping chapter of this Ordinance, from any public street or adjacent residential property.
 7. Excluding a finished or unfinished basement, or accessory structure, display of stock, goods, or products (for the purpose of sale) shall not be visible from any street or adjacent residential property.
 8. Except in the OSP and RR districts, operation of the home occupation shall not be visible from any dwelling on an adjacent lot, nor from a street.
 9. Except in the OSP and RR districts, oversized commercial vehicles and utility trailers, as defined by the municipal ordinance, shall not be permitted in connection with a home occupation.
 10. Except in the OSP and RR districts, the number of vehicles used by clients, employees (contracted or otherwise employed), or business-related visitors to the home shall be limited to two (2) vehicles at any time.
 11. The home occupation shall not utilize mechanical, electrical, or other equipment, which produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisances outside the dwelling or accessory structure housing the home.
 12. One non-illuminated wall sign is permitted not to exceed three (3) square feet in size.
- S. Housing Service for the Elderly – For GR & UR only**
1. The total number of dependent or independent units shall not exceed the applicable district’s density maximum.
- T. Internet / Electronic Gaming – For HB only**
1. Internet/electronic gaming shall not be located within 500 feet in any direction from any religious institution, public or private child care center/facility, public or private school, or municipal government facilities, including but not limited to municipal public parks.

2. During hours of operation, internet/electronic gaming operations shall be open for direct, unobstructed access by police, fire, and emergency response personnel. All entrance doors shall remain unlocked while the premises are being occupied by patrons. All internet/electronic gaming terminals/computers/tables/machines/gaming stations shall be open and visible from the exterior front of the establishment.
3. No person or entity engaged in internet/electronic gaming operations shall allow, permit, or condone any person under the age of eighteen (18) to be upon the premises while patrons are engaged in the gaming operations.
4. All rules of the internet/electronic gaming shall be displayed in a visible prominent place within the establishment.

U. Live Work Units – *For All Applicable Districts*

1. Shall not exceed 3,000 gross square feet and three (3) stories in height.
2. The same occupant shall inhabit the work area and living area.

V. Manufactured Housing – *For All Districts*

1. The manufactured home shall meet the architectural standards of Section 5.7.C.
2. A minimum width (the width being the narrower of the two overall dimensions) of the main body of the manufactured home as assembled on the site shall be at least twenty-two (22) feet for a distance extending along the length (the length being the longer of the two overall dimensions) of at least forty (40) feet. In general terms, this only permits “doublewide” manufactured housing.
3. A manufactured home shall not be used for a non-residential purpose.

W. Manufacturing – Neighborhood – *For RMX only*

1. Outdoor storage is prohibited.
2. The use shall be limited to 10 employees.

X. Public Safety Station – *For RR, GR, UR, HR, RMX & NMX only*

1. Incarceration facilities shall not be incorporated into the station.

Y. Residential Treatment Facility – *For RR, RMX, NMX & TND only*

1. One-half mile distance requirement between facilities.
2. Only licensable facilities, within the meaning of N.C.G.S. 122C-3, having secured licensure from the Division of Health Service Regulation, may operate in these districts.

Z. Restaurant – For RMX only

1. Shall not exceed 3,500 gross square feet

AA. Storage – Warehouse / Indoor Storage – For CMX & DMX only

1. When operated as adaptive re-use only

BB. Urban Farm – For LI, HS, IC, & TND only

Urban farms are a means to reintroduce and increase access to regionally and seasonally grown and processed foods. Urban farms, defined by this Ordinance, are intended for tourism, education, training, and/or small-scale retail or wholesale purposes. Urban farms are not to be confused with homesteading, subsistence farming, or community gardens; they are intended to be developed as educational, informational, or training farms that assume a limited level of commerce. The additional use standards are as follows by District:

1. CMX, DMX, HB: Urban farms in the CMX, DMX, and HB district are not intended to utilize open acreage; instead, they are intended for smaller tracts in urbanized areas that shall be limited to indoor production through the use of greenhouses, and may include private (sole or shared use), wholesale, or retail crop production (LBCS F9100); and support functions for agriculture (LBCS F2900).
2. LI: Urban farms in the LI district shall be limited to wholesale crop production (LBCS F9100); support functions for agriculture (LBCS F9200); and/or animal production including slaughter (LBCS F9300) in a fully enclosed and contained facility while expressly excluding swine. Urban farms in the LI district may also include completely-contained composting or vermiculture facilities as part of an NRCS-regulated conservation plan.
3. HS, IC: Urban farms in the HS and IC may include private (sole or shared use), wholesale, or retail crop production (LBCS F9100); support functions for agriculture (LBCS F9200); and/or specifically dairy cattle and milk production (LBCS F9320), poultry and egg production and hatcheries (LBCS F9340), sheep and goat farming (LBCS F9350), fish hatcheries and fisheries (LBCS F9360), and all other animal production as defined (LBCS F9370), as well as the support functions (LBCS F9380) for the aforementioned animal farming activities. Urban farms in the HS and IC districts may also include completely-contained composting or vermiculture facilities as part of an NRCS-regulated conservation plan.
4. TND: Urban farms in the TND district shall not exceed 3 acres in size or area, and shall be limited to private (sole or shared use) or retail crop production (LBCS F9100); support functions for agriculture (LBCS F9200); and/or specifically egg production and hatcheries (limited LBCS F9340).

CC. Vehicle/Heavy Equipment Sales – For DMX & TND only

1. **Equipment Display/Storage:** No product for sale or rent/lease may be displayed in any front yard, and such displays are prohibited from encroaching on any required landscaping areas or planting yards.
2. **Outdoor PA Systems:** Outdoor public address system shall be prohibited.

DD. Vehicle Services – Major Repair / Body Work – For DMX & HB only

1. All work shall be conducted indoors within an enclosed building.

EE. Wireless Telecommunication Facility – For All Districts

The purpose and intent of this section is to provide regulations regarding and affecting the location and characteristics of commercial (i.e., non-governmental or emergency use) wireless telecommunications facilities in the City of Salisbury’s zoning jurisdiction.

In recognition of the Telecommunications Act of 1996, it is the intent of the City of Salisbury to allow Wireless Telecommunication providers the opportunity to locate towers and related facilities within its jurisdiction in order to provide an adequate level of service to its customers while protecting the health, safety, and welfare of the citizens of Salisbury. Wireless Telecommunication Facilities may be considered undesirable with other types of uses, most notably residential, therefore, special regulations are necessary to ensure that any adverse effects to existing and future development are mitigated.

1. Location of Wireless Telecommunication Facilities

- a. Applicants for wireless telecommunications facilities shall demonstrate to the city its efforts to locate, site and erect said wireless telecommunications facilities in accordance with the following preferences, one (1) being the highest preference and four (4) being the lowest preference.
 - (1) On existing telecommunications towers or other tall structures;
 - (2) Co-location on a site with existing wireless telecommunications facilities or structures;
 - (3) On municipally owned properties;
 - (4) On other property in the city.
- b. If the proposed site is not the highest preference listed above, then a detailed written explanation must be provided as to why a site of a higher preference was not selected. The applicant must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.

- c. An applicant may not by-pass sites of higher preference solely because the site presented is the only site leased or selected. An application shall address collocation as an option and if such option is not proposed, the applicant must explain why collocation is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting collocation, shall not be a valid basis for any claim of commercial impracticability or hardship.
- d. Notwithstanding the above, the council may approve any site located within an area in the above list of preferences, provided that the council finds that the proposed site is in the best interest of the health, safety, and welfare of the city and its inhabitants.
- e. The applicant shall submit a written report demonstrating the applicant's review of alternative sites considered in light of the preferences, demonstrating the technological reason for the site selection. If the site selected is not the highest preference, then a detailed written explanation as to why sites of a higher preference were not selected shall be included with the application.
- f. The applicant shall, in writing, identify and disclose the number and locations of any additional sites that the applicant has been, is, or will be considering, reviewing or planning for wireless telecommunications facilities in the city, and all municipalities adjoining the city, for a two-year period following the date of the application.
- g. Notwithstanding that a potential site may be situated in an area of highest preference or highest available preference, the council may disapprove an application for any of the following reasons:
 - (1) Conflict with safety and safety-related codes and requirements;
 - (2) Conflict with traffic needs or traffic ordinances, or definitive plans for changes in traffic flow or traffic ordinances;
 - (3) Conflict with the historic nature of a neighborhood or historical district;
 - (4) The use or construction of wireless telecommunications facilities which is contrary to an already stated purpose of a specific zoning or land use designation;
 - (5) The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the probability of such, to residents, the public, employees and agents of the city, or employees of the service provider or other service providers;
 - (6) Conflicts with the provisions of this article.

2. Lot Size and Setbacks for Wireless Telecommunication Facilities

- a. All proposed wireless telecommunications facilities shall be set back from abutting parcels, recorded rights-of-way and road and street lines a distance sufficient to substantially contain on-site icefall or debris from a tower or tower failure, and to preserve the privacy and sanctity of any adjoining properties. The minimum setback for a tower shall be the height of the tower plus ten (10) feet.
- b. All proposed wireless telecommunications facilities shall be located with a minimum setback from any property line a distance equal to the height of the wireless telecommunications facility or the existing setback requirement of the underlying zoning district, whichever is greater. Further, any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.
- c. The setback and fall zone requirements of this article shall apply to extensions of existing facilities to accommodate the co-location of additional equipment on the existing site. If the tower on which an extension is proposed is designed to collapse upon itself in the event of catastrophic failure, then any extension of the tower shall likewise be designed to collapse upon itself. If the existing tower is not designed to collapse upon itself, then any extension of the tower shall comply with the setback requirements set forth in subsection (a) hereof unless the council waives such requirement.

3. Stealth – *For all districts except OSP & RR*

- a. All facilities shall be mounted in a manner such that the personal wireless service facilities do not extend beyond the top of the building or structure on which they are being mounted.
- b. Such facilities shall be designed to blend in with the existing structure or buildings with similar colors or other techniques as appropriate.

4. Co-Location

- a. Shared use of existing wireless telecommunications facilities shall be preferred by the city, as opposed to the proposed construction of a new telecommunications tower. Where such shared use is unavailable, location of antennas on other pre-existing structures shall be considered and preferred. The applicant shall submit a comprehensive report inventorying existing towers and other structures identified by the city at the pre-application meeting or, if no such meeting is conducted, within ten (10) business days of receipt of the application, within a two-mile radius of any proposed new tower site, unless the applicant can show that some other distance is more reasonable, and outlining opportunities for shared use of existing facilities and the use of other pre-existing structures as a preferred alternative to new construction.

- b. An applicant intending to share use of an existing telecommunications tower or other structure shall be required to document the intent of the existing owner to share use.
- c. Such shared use shall consist only of the minimum antenna array technologically required to provide service within the city, to the extent practicable, unless good cause is shown.

Antenna and Tower Standards

d. Antenna standards

- (1) Antennas shall not interfere with the usual and customary radio and television reception excepting broadcast facilities as provided for in the regulations of the Federal Communications Commission.
- (2) All antennas shall comply with FCC and FAA guidelines. The antenna owner shall provide the city each year with a copy of any FCC and FAA license issued.
- (3) Antennas shall be restricted to the minimum standards of lighting required by the FAA. All antennas that require flashing lights by the FAA shall utilize a dual lighting system consisting of a white strobe light for daytime lighting and a red flashing light for nighttime lighting.
- (4) All antennas and related mechanical equipment placed on structures other than towers shall be concealed antennas. Antennas located on top of buildings or other structures shall not exceed 30% of the building height. In no event shall an antenna extend beyond the structure in any direction greater than 25 feet.
- (5) The antenna and supporting electrical and mechanical equipment shall be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (6) Antennas erected solely for a residential, noncommercial individual use, such as residential television antennas, satellite dishes, or ham radio antennas are exempt from these requirements.

e. Tower standards for LI and HI Districts

Provided that the proposed wireless telecommunications facility satisfies all performance standards below, wireless telecommunications facilities shall be permitted by right in the LI (Light Industrial) and HI (Heavy Industrial) districts.

- (1) New telecommunications towers shall be located at least 500 feet from any existing, legal residential uses in the LI and HI districts.

- (2) No new telecommunications tower shall be permitted in, or within 200 feet of, any officially recognized Federal, State or local historic district or site.
- (3) No new, guyed telecommunication towers are allowed.
- (4) No telecommunications tower (including all appurtenant structures such as, but not limited to, lights, lightning rods, and antennae) may exceed 200 feet in height.
- (5) The base of any telecommunications tower shall be set back from the nearest property line a distance at least equal to the height of the proposed facility (including the telecommunications tower, and any appurtenances thereto such as, but not limited to, lights, lightning rods and antennae).
- (6) The telecommunications tower shall be designed to accommodate the weight and bulk of antennae and equipment for at least two other telecommunications service providers.
- (7) A new tower may not be located within 1,500 feet of another, existing tower (such distance to be measured in a straight line from base of tower to base of tower).
- (8) Lighting, if any, shall not exceed the minimum lighting required by the Federal Aviation Administration (FAA). The applicant shall demonstrate by written documentation that any lighting proposed is the minimum lighting required by the FAA, and shall specifically demonstrate that marking, rather than lighting, has been deemed unacceptable at the site by the FAA.
- (9) The base of each tower shall be enclosed by a fence or wall at least eight (8) feet.
- (10) The base station equipment and tower base, and the fence surrounding it, shall be screened from view from surrounding properties by a landscaping barrier at least eight (8) feet in depth and at least six (6) feet in height.
- (11) The application for a tower shall include the following information:
 - i) The identity of the owner and intended user(s) of the tower;
 - ii) Written documentation signed and sealed by a qualified, licensed engineer indicating that the tower and its base station area have sufficient structural integrity to accommodate antennae and accessory equipment of at least three (3) users;
 - iii) A map indicating the location of applicant's nearest, other antennae locations (360°), and a statement of the applicant's need for the facility for which approval is sought;

- iv) Written documentation that there are no suitable, existing facilities available to the applicant within its coverage area to allow co-location of the applicant's equipment. Such documentation shall include a map of the applicant's desired coverage area and a list of 9 candidate sites considered, if any, and a description of applicant's efforts to gain permission to use each identified candidate site.
- v) A written statement of the applicant's intent to allow shared use of the tower by at least the minimum number of additional users required by this Ordinance;
- vi) A photograph or other pictorial representation of the appearance of the proposed antenna array to be mounted at the top of the tower.
- vii) The applicant shall guarantee in writing, and provide financial security by cash deposit, letter of credit, bond, or other means approved by the Administrator, to ensure that the tower will be removed within six (6) months of cessation of use and that sufficient funds are available to pay all costs associated with such removal. The amount and form of security shall be reviewed at least every two years, and the amount thereof increased, if necessary, to equal the amount of the then-established cost of removal.

f. Special Use Permit Standards for Towers

New wireless telecommunication towers where permitted in the CMX, DMX, HB, HS, and IC districts are subject to the issuance of a Special Use Permit.

- (1) In addition to making the findings required by the City of Salisbury Zoning Ordinance for the approval of a special use permit generally, the City Council shall also find the following before approving an application for a special use permit to construct or locate a wireless telecommunications facility:
 - i) That no other existing wireless telecommunications facility or tower can provide adequate service in the area which the applicant seeks to cover from the proposed location, without increasing the height of the existing facility or tower;
 - ii) That the height of the proposed wireless telecommunications tower is no greater than the minimum necessary to provide adequate service to the applicant's proposed coverage area and in no instance shall the height exceed 200 feet. In this regard, the applicant shall specifically describe both the service area and the level of service (both in terms of signal strength and type of coverage – in building, in-vehicle, or both) desired in the service area;

- iii) That a qualified, licensed engineer has certified that the electromagnetic field expected to be generated by the proposed telecommunications facility (assuming the maximum number of antennae simultaneously operating at the maximum expected power) are within threshold levels deemed safe by the Federal Communications Commission;
- iv) That a qualified, licensed engineer has certified that the proposed telecommunications facility will not cause interference with existing telecommunications devices, nor with the operations of radios, televisions, cell telephones, computers, and other electronic equipment, on adjoining and nearby properties;
- v) That propagation studies of the proposed site and the applicant's proposed existing wireless telecommunications facilities immediately surrounding the proposed site, demonstrate that the proposed facility will, in fact, satisfy the applicant's service goals in the area to be covered by the proposed wireless telecommunications facility;
- vi) That the visual impact to the area surrounding the proposed site due to the height or bulk, or other visual characteristic, of the proposed facility is limited to a level acceptable to the City Council. The City Council may require the applicant to provide photographic simulations or other evidence to demonstrate what the proposed facility would look like if constructed as proposed at the site;
- vii) That the applicant has demonstrated sufficient financial responsibility to ensure the removal of the proposed telecommunications facility upon its cessation of use. Applicants may satisfy this requirement by providing security in a form and amount deemed sufficient by counsel and by a qualified engineer to cover the cost of removal of the facility. The amount and form of security shall be reviewed at least every two years, and the amount thereof increased, if necessary, to equal the amount of the then-established cost of removal.
- viii) That in order to better inform the public, in the case of a new telecommunication tower, the applicant shall prior to the evidentiary hearing on the application, hold a "balloon test" as follows: Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three-foot diameter, a brightly colored balloon at the maximum height of the proposed new tower. The balloon shall be flown for at least eight (8) consecutive hours sometime between 7:00 a.m. and 4:00 p.m. of the dates chosen. The primary date shall be on a weekend, but the second date, in case of poor visibility on the initial date, may be on a weekday. The dates, (including a second date, in case of poor visibility on the initial date) times

and location of this balloon test shall be advertised according to Salisbury City Clerk standards, by the applicant, not less than 10 days nor more than 25 days in advance of the first test date in a newspaper with general circulation in the city. Prior to the evidentiary hearing, the applicant shall provide a photo simulation of the proposed tower and attest to the fact that the test was properly advertised on a certain date and the test was conducted on a certain date, time, and location.

- g. Replacement of existing towers:** Towers existing at the time of this Ordinance may be replaced with a taller tower and reviewed for approval by the Administrator in lieu of the Board of Adjustment, provided the tower shall conform to the standards detailed in Subsection b above, as well as with the following standards:
- (1) The height of the replacement tower may not exceed the height of the original tower by more than 50 feet, and the addition of up to 50 feet may occur only once.
 - (2) The replacement tower shall be located in as close proximity to the base of the original tower as reasonably possible, but in no event more than 50 feet from the base of the original tower.
 - (3) The replacement tower shall utilize monopole construction and shall be designed and equipped with the technological and structural capability to accommodate at least one other wireless communication carrier or provider.
 - (4) The owner of the replacement tower shall provide the planning director with an affidavit stating that at least one other wireless communications carrier needs a wireless communications facility within 1,250 feet of the subject site and that such carrier has agreed to co-locate on the replacement tower.
 - (5) The fall and debris radius requirement and setback requirement in Subsection b above may be exempted provided certified drawings from an engineer are given attesting that the proposed replacement tower and debris would fall within the boundary lines on which the tower is located.
 - (6) The base of the replacement tower shall be screened to the extent practical on a case-by-case basis upon review and approval of the planning director. A combination or option of solid screen (fencing) or vegetative screens shall be utilized based upon Chapter 8, Landscaping.

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