

**ARTICLE 5
SUPPLEMENTARY REGULATIONS**

SECTION 5.1 INTENT AND PURPOSE

These regulations supplement and qualify regulations contained elsewhere in this ordinance. Unless otherwise stated, the regulations hereafter established shall apply to all districts established by this ordinance.

SECTION 5.2 NUMBER OF PRINCIPAL BUILDINGS ON A ZONING LOT

Except for detached one-family and two-family dwellings, more than one principal building may be located on the same zoning lot provided that density and dimensional requirements of this ordinance shall be met for each principal building as though they were on individual lots.

SECTION 5.3 CONFORMITY WITH DIMENSIONAL AND OFF-STREET PARKING REGULATIONS

1. The maintenance of yards, other open space and minimum lot area required for a structure shall be a continuing obligation of the owner of such property on which it is located as long as the structure is in existence.
2. No required yards, other open space or minimum lot area allocated to any structure, shall be used to satisfy required yards, other open spaces or minimum lot area requirements for any other structure.
3. There shall be no obstructions permitted in required yards except as hereinafter set forth.
4. Except as provided for in Article 6, "Off-Street Parking and Loading Requirements," no required off-street parking area required for a use on a zoning lot shall be used to satisfy the required off-street parking for a use of another zoning lot.

SECTION 5.4 LOT AREA AND WIDTH EXCEPTIONS

Within the R-3 and R-4 districts, a reduction in the minimum lot area and/or lot width for detached one-family dwellings may be granted by the Enforcement Officer if the lot area and/or width are consistent with the prevailing pattern of the record subdivision in which the lot is located. In determining the prevailing pattern of a subdivision, the lot area and/or width of at least ten (10) of the closest lots shall be considered or, if there are fewer than ten (10) lots, the prevailing pattern of the lots on the block frontage shall be considered. In no case shall an exception be granted for any lot which is less than four-thousand five-hundred (4,500) square feet in area nor less than thirty seven and one-half (37-1/2) feet in width at the building setback line.

SECTION 5.5 HEIGHT EXCEPTIONS

Chimneys, cooling towers, elevator equipment enclosures, monuments, tanks, water towers, ornamental towers and spires, church steeples, radio, television, cellular or microwave towers, or necessary mechanical appurtenances usually required to be placed above the roof level are not subject to the height limitations contained in the District Regulations.

SECTION 5.6 SETBACK EXCEPTIONS**5.6-1 General Setback Exceptions**

Every part of a yard between the property lines and the required building setback line shall be unoccupied and unobstructed by any structure or portion of a structure from ground level of the graded lot upward, except for:

1. All Yards:
 - a. Hedges, flagpoles and other customary yard accessories, ornaments and furniture are permitted in any yard subject to location and size limitations, height limitations and requirements limiting obstruction of visibility contained in this ordinance (see **Section 5.12**).
 - b. Steps, ramps, or wheelchair lifts, four (4) feet or less above grade, which are necessary for access to a permitted building or structure, or for access to a zoning lot from a street or alley. Guardrails, not exceeding forty-two (42) inches above the walking surface, are permitted as well.
 - c. Awnings and canopies, projecting three (3) feet or less into the required yard setback, except as provided for in paragraph 2. c. below.
 - d. Ordinary projections of chimneys or other vent pipes that are suitably concealed, projecting eighteen (18) inches or less into the required yard setback.
 - e. Fences, subject to the requirements of **Section 5.9**, "Fence Regulations."
 - f. Traffic control devices, pad-mounted transformers, service pedestals, splice boxes and similar appurtenances required for underground utility and cable systems.
2. Front Yards:
 - a. Terraces, provided that such terraces shall not extend into the required front yard setback by more than ten (10) feet. Guardrails around terraces are permitted as well, provided that such guardrails shall be limited to forty-two (42) inches above the surface of such terraces.
 - b. One-story bay windows projecting three (3) feet or less into the required front yard setback.
 - c. Awnings, canopies and marquees in the B-2 district are permitted to project into the street right-of-way, subject to the requirements and limitations of the Building Code.
 - d. Overhanging eaves and gutters projecting four (4) feet or less into the required front yard setback.
 - e. Off-street parking areas and access drives (see **Article 6, Section 6.3-3**, for limitations on the location for such areas).
 - f. Signs, subject to the regulations contained in Article 7 of this ordinance.
3. Rear Yards:
 - a. Terraces, provided that such terraces may be covered, but not enclosed, and that no cover shall extend into the required front yard setback by more than ten (10) feet. Guardrails around terraces are permitted as well, provided that such guardrails shall be limited to forty-two (42) inches above the surface of such terraces.

- b. An elevated deck, covered or uncovered, provided that such deck shall not be enclosed nor shall extend into the required rear yard setback by more than ten (10) feet.
 - c. Accessory buildings, detached from the principal building, subject to dimensional requirements 5.7-2.
 - d. Antennas and satellite dishes.
 - e. One-story bay windows projecting three (3) feet or less into the required rear yard setback.
 - f. Overhanging eaves and gutters projecting four (4) feet or less into the required rear yard setback.
 - g. Children's recreational equipment.
 - h. Laundry drying lines.
 - i. Air conditioning equipment.
 - j. Off-street parking areas and access drives (see **Article 6, Section 6.3-3**, for limitations on the location for such areas).
4. Side Yards:
- a. Terraces, provided that such terraces shall not be located within two (2) feet of the side lot line. Guardrails around terraces are permitted as well, provided that such guardrails shall be limited to forty-two (42) inches above the surface of such terraces.
 - b. Overhanging eaves and gutters projecting into the required side yard setback for a distance not to exceed twenty-four (24) inches.
 - c. Air conditioning equipment located not less than two (2) feet from the side lot line.
 - d. Off-street parking areas and access drives (See **Article 6, Section 6.3-3**, for limitations on the location for such areas).

5.6-2 Side Yard Setback Exception for Detached One-Family Dwellings

Within the R-3 and R-4 districts, a reduction in the minimum side yard setback for detached one-family dwellings may be granted by the Enforcement Officer if the side yard widths are consistent with the prevailing pattern of the subdivision in which the lot is located. In determining the prevailing pattern of a subdivision, the side yards of at least ten (10) of the closest lots shall be considered or, if there are fewer than ten (10) lots, the prevailing pattern of side yards on the block frontage shall be considered. In no case shall an exception be granted which eliminates any of the off-street parking requirements and which does not meet the following minimum standards:

1. A side yard of not less than four (4) feet in width.
2. A combined width of not less than nine (9) feet for both side yards of the lot.
3. A combined width of not less than nine (9) feet for the adjoining side yards of adjoining lots.

5.6-3 Setbacks Established by Recorded Subdivision Plat

Where a recorded subdivision plat establishes a building setback line that is greater than that required by the applicable district regulations, the recorded subdivision setback requirement shall be the minimum setback. In no event shall the setback be less than the minimum established for the zoning district.

5.6-4 Front Yard Setbacks for Corner Lots of Record

Where a lot of record is located at the intersection of two or more streets, there shall be a front yard on each street side of the corner lot. However, in situations where the front face of an existing principal building is oriented to the narrower of the two front lot lines, the required front yard building setback from the longer of the two front lot lines may be reduced to a distance of fifteen (15) feet, or the established setback in the applicable recorded subdivision plat, whichever is greater. This exception shall not apply to reverse corner lots.

SECTION 5.7 ACCESSORY USES, BUILDINGS, AND STRUCTURES**5.7-1 Permitted Accessory Uses, Buildings, and Structures**

A permitted accessory use is any use or structure which complies with the definition of "Accessory Use" contained in Article 2, "Definitions," including but not limited to, the following typical uses:

1. Garages or carports.
2. A structure for storage or a greenhouse, when accessory to a one-family or two family dwelling and subject to size limitations (see **Section 5.7-2** of this Article).
3. Antennas and satellite dishes.
4. A child's playhouse.
5. Private recreation facilities, including tennis courts.
6. Outdoor swimming pools and hot tubs.
7. Statuary, arbors, trellises, barbecue stoves, dog houses, flag poles, fences, walls and hedges.
8. Off-street parking areas.
9. Signs, subject to the provisions of Article 7 of this ordinance.

5.7-2 Dimensional Regulations

In addition to other dimensional regulations established elsewhere in this Article, the following dimensional standards shall apply to accessory uses, buildings and structures:

1. Garages or carports shall not exceed the height of the dwelling or twenty-four (24) feet, whichever is less, and shall comply with the required principal building setbacks, except that a detached garage or carport may be located from the rear lot line by a distance of not less than five (5) feet.

2. Parking structures, attached to the principal building, shall comply with the setback requirements for said principal building.
3. Accessory structures and uses located in a rear yard shall be set back at least five (5) feet from the rear lot line and at least three (3) feet from the side lot lines.
4. Accessory structures and uses shall maintain the same front setback as is required for the principal structure located on the zoning lot, except that off-street parking areas, fences, walls, uncovered terraces, and hedges may be located in required front or side yards, subject to the limitations contained in **Section 5.6** of this Article.
5. A structure for storage or a greenhouse, that is accessory to a one-family or two-family residential building, shall not exceed two hundred fifty (250) square feet in gross floor area nor exceed twelve (12) feet in height.
6. On one-family detached or attached, and two family dwelling lots, accessory structures may be built in the required rear yard, but not less than five (5) feet from the rear lot line. At least eight-hundred (800) square feet of the required rear yard shall remain as private open space, unoccupied by such accessory structures.
7. Private recreation facilities, including tennis courts and outdoor swimming pools and hot tubs shall be set back at least five (5) feet from any lot line and at least twenty feet from any dwelling on an adjacent lot. Such facilities shall be screened from adjacent residential property with a fence and/or dense planting (see **Section 5.9** for fence regulations).
8. An accessory building, that is detached from the principal building, shall not be located closer to the front lot line than the distance the principal building is located from the front lot line and in no instance shall an accessory building be located within a required front yard setback.
9. An attached private garage or carport shall comply with the required front yard building setback specified in the applicable district regulations.
10. Accessory structures and uses shall otherwise comply with the dimensional regulations applicable to the district in which they are located.

5.7-3 Other Use Limitations

1. 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.
2. Accessory uses customarily incidental to residential uses, such as the use of a lot or portion thereof for a vegetable or flower garden and the keeping of domesticated animals are permitted, but not on a commercial basis or that creates a nuisance to adjacent or nearby residents.
3. No garage or carport, attached or detached, shall be used for or converted to habitable space, unless it is demonstrated that the required off-street parking requirements and adopted building codes will be complied with (see Article 6).

SECTION 5.8 LANDSCAPING AND SCREENING REQUIREMENTS**5.8-1 Planting Specifications**

1. General:
 - a. Landscaping required by this ordinance shall mean living plants in a combination of trees, shrubs, and/or ground cover.
 - b. Unless otherwise stated in this ordinance, all size specifications for plant materials shall be based upon the time of planting. When caliper is specified for tree planting, the caliper of the tree trunk shall be measured at twelve (12) inches above the ground level.
2. Planting Types:
 - a. *Canopy trees:* A self-supporting woody, deciduous plant having not less than a two and one-half (2-1/2) inch caliper and reaches a mature height of not less than twenty (20) feet and a mature spread of not less than fifteen (15) feet.
 - b. *Ornamental trees:* A self-supporting woody, deciduous plant having not less than a one and one-half (1-1/2) inch caliper and normally attains a mature height of at least fifteen (15) feet and usually has one main stem or trunk and many branches. Several species may appear to have several stems or trunks.
 - c. *Evergreen trees:* A tree having foliage that persists and remains green throughout the year and having a height of not less than six (6) feet and maturing to a height of not less than twenty (20) feet.
 - d. *Shrub:* A self-supporting woody perennial plant (deciduous or evergreen) of low to medium height characterized by multiple stems and branches continuous from its base and having a height of not less than two (2) feet and normally maturing to a height of not more than ten (10) feet.
 - e. *Ground cover:* Plants, other than turf grass, normally reaching an average maximum height of not more than twenty four (24) inches at maturity.

5.8-2 Screening Between Non-Residential and Residential Zoning Districts

1. In situations where a non-residential use is established adjacent to residentially zoned property, the developer of the non-residential use shall provide the following screening within the required rear and/or side yard building setback areas:
 - a. Within this setback, there shall be a landscaped buffer area not less than fifteen (15) feet in width, planted with one (1) canopy tree for every thirty (30) lineal feet of common property line or planted with evergreen trees spaced so that such evergreen trees create a continuous visual screen within five (5) years after planting. Combination of canopy trees, evergreen trees, ornamental trees and shrubs are permissible and encouraged, provided that such landscaping, in the opinion of the Enforcement Officer, will effectively screen the non-residential uses from the view of the abutting residential zoned properties.

or,

 - b. There shall be placed at the property line a neat, clean and maintained sight-proof fence or wall having a minimum height of six (6) feet but not more than eight (8) feet. Where a loading area or access drive thereto is within fifty (50) feet of residentially zoned property, the fence shall be eight (8) feet in height.

Exception: The above requirements shall not apply to development within the B-2 district.

2. In situations where a residential subdivision (more than three [3] lots) or other multiple dwelling unit development is constructed on a site that is adjacent to business or industrially-zoned lot, the developer of the residential subdivision or development shall provide the following increase in setbacks and screening:
 - a. The minimum setback for the principal residential buildings shall be increased by fifteen (15) feet along the common property line separating the residential and commercial or industrial zoning district. A permanent buffer strip of a minimum of fifteen (15) feet shall be established adjacent to and parallel to the said common property line(s). This strip shall be indicated on the approved subdivision plat and/or development plan and annotated with the following statement: *"This strip is reserved for landscape screening. The placement of buildings or other structures hereon is prohibited."*
 - b. Within this buffer strip, there shall be a landscaped area planted with one (1) canopy tree for every thirty (30) lineal feet of common property line or planted with evergreen trees spaced so that such evergreen trees create a contiguous visual screen within five (5) years after planting. Combination of canopy trees, evergreen trees, and shrubs are permissible and encouraged, provided that such landscaping, in the opinion of the Enforcement Officer, will effectively screen the non-residential property from the view of the residential subdivision or development.
 - c. In addition, there shall be placed at the property line a neat, clean and maintained sight-proof fence or wall having a minimum height of six (6) feet, but not more than eight (8) feet.

5.8-3 Screening of Building Mechanical or Electrical Equipment

Major mechanical and electrical systems should be located within the building envelope, if possible. In situations where this is not possible, the following screening standards shall apply to all building mechanical and electrical equipment located outdoors. *Exceptions:* Developments in the M-1 district, M-2 district and air conditioning units associated with individual residential dwellings need not comply with these screening requirements.

1. Ground-Mounted Equipment:

Exterior equipment may be located at ground level, or depressed below ground level, so that the maximum height does not exceed eight (8) feet. The equipment shall not be visible between the ground level and six (6) feet above ground level of any street adjoining the property or from adjacent properties. Screening may be achieved with a wall that is consistent with and/or complementary to the exterior material of the principal building or with dense landscaping. In no case shall ground-mounted building equipment be located between the principal building and a public right-of-way or private street.

2. Roof-Mounted Equipment:

All rooftop building service equipment shall not be visible between the ground level and six (6) feet above ground level of any street adjoining the property or from adjacent properties. All mechanical equipment shall be screened by an integral element of the architectural design of the building or a separate permanently installed screen which harmonizes with the building in terms of material, color, size and shape. Rooftop equipment shall be permitted, without screening, if it is of a low profile design and in a location on the roof which is not visible between the ground level and six (6) feet above ground level of any street adjoining the property or from adjacent properties.

5.8-4 Screening of Refuse Disposal Containers

1. For all non-residential developments, outside storage of refuse shall be in suitable, covered, containers and shall be located so that such containers cannot be seen from adjacent streets or properties. Where such containers cannot be so located, the containers shall be screened from view from all four (4) sides with a wood, masonry fence (brick, stone, or textured and pigmented concrete, with an opaque gate made of metal or wood, but excluding chain link or wire) having a minimum height of six (6) feet but not more than eight (8) feet.
2. For all residential developments, outside storage of refuse shall be in suitable, covered, containers and shall be located so that such containers cannot be seen from adjacent streets or properties. In multi-family developments having shared outside trash storage containers, such containers shall be screened from view from all four (4) sides with a sight proof fence or wall, consistent with the architectural character of the multi-family dwellings. Chain link fences, with opaque slat inserts, shall not be permitted for this purpose.
3. Exceptions to Screening Requirements:
 - a. Refuse containers located adjacent to alleys are exempt from screening requirements on the alley side.
 - b. Refuse containers associated with one-family and two-family dwellings are exempt from screening requirements.

5.8-5 Landscaping of Off-Street Parking Areas

1. Landscaping Requirements for Parking Areas Adjacent to Streets:

Where a parking lot, having twenty (20) or more parking spaces, is adjacent to or is visible from any public or private street, the entire frontage along said parking area, excluding entrance drives, shall be landscaped as follows:

- a. Two (2) canopy trees and two (2) shrubs shall be planted for every forty (40) feet of frontage, to be located within a strip of land paralleling the adjacent street and having a width of not less than ten (10) feet. Trees do not have to be placed forty (40) feet on center. Strategic placement and grouping of trees and shrubs is encouraged. Incorporation of ground cover in the planting scheme is also encouraged.
- b. Other than turf grass or ground cover, landscaping of ground paralleling the adjacent street shall be located outside of the street right-of-way. The Enforcement Officer may permit required landscaping within the street right-of-way if it can be demonstrated that no reasonable alternative exists and that written authorization is provided by any affected public agency or utility company that has jurisdiction over the right-of-way or has easement rights.
- c. A maximum of fifty (50) percent of the required number of trees may consist of ornamental trees. The Enforcement Officer may authorize an increase in this percentage where canopy trees may interfere with overhead wires.
- d. The required number of trees and shrubs may be reduced by up to fifty (50) percent if earth sculpting, berms, or decorative screening walls are installed on private property along the frontage of the adjacent street to a height of not less than three (3) feet above the grade of the parking area and, in the opinion of the Enforcement Officer, are designed to effectively screen the parking area yet avoid erosion, drainage or maintenance problems.
- e. No landscaping, walls, or berm that exceeds twenty-four (24) inches in height shall be located within ten (10) feet of any parking lot access drive or otherwise located so as to interfere with the sight-distance visibility of vehicular traffic or pedestrians.

2. Landscaping Requirements for Interior Areas:

A parking lot, having forty (40) or more parking spaces, shall be landscaped as follows:

- a. A minimum of twenty (20) square feet of interior landscaped areas shall be provided for each parking space. The landscaping shall be in one or more areas so as to break up the apparent expanse of the parking area and, whenever feasible, located at the ends of parking rows abutting circulation aisles. In order to qualify as interior landscaped area, said area shall be located wholly within or projecting inward from the boundaries of the parking area. The landscaped strip, as required under paragraph 2 above, shall not qualify as an interior landscaped area, regardless of its width or depth.
- b. Individual interior landscaped areas shall have a minimum area of fifty (50) square feet and a minimum width of nine (9) feet. One (1) canopy or ornamental tree shall be planted for every four hundred (400) square feet of the total of all interior landscaped areas. Trees shall be evenly spaced whenever possible.
- c. A maximum of fifty (50) percent of the required number of trees may consist of ornamental and/or evergreen trees.

3. Protection of Landscaping:

Landscaped areas shall be protected from the encroachment of motor vehicles by placing, along the entire perimeter of the landscaped area, a six (6)-inch concrete curb or other curbing material approved by the Enforcement Officer.

5.8-6 Installation and Maintenance of Landscaping

1. Immediately upon planting, all trees shall conform to the *American Standard for Nurserymen*, published by the American Association of Nurserymen, Inc., as revised from time to time.
2. All new landscaped areas shall be installed prior to the occupancy or use of the building or premises; or if the time of the season or weather conditions is not conducive to planting, the Enforcement Officer may authorize a delay for such planting up to six (6) months after occupancy or use of the buildings or premises. Dead plant materials shall be replaced in a timely fashion with living plant material, taking into consideration the season of the year, and shall have at least the same quantity and quality of landscaping as initially approved.
3. All landscaping and screening shall be maintained in a healthy, neat, trimmed, clean and weed-free condition. The ground surface of landscaped areas shall be covered with either grass and/or other types of pervious ground cover located beneath and surrounding the trees and shrubs.
4. Any required landscaped area, greater than one-hundred and fifty (150) square feet in area, shall be provided with an underground irrigation system or be provided with a potable water supply within fifty (50) feet of said landscaped areas, or equivalent means.

5.8-7 Tree Preservation

1. Significant healthy existing trees, having a diameter of eight (8) inches or greater, as measured at diameter breast height (DBH) above the established ground level shall be preserved, except as provided herein.

2. Trees on a proposed development site meeting the above criteria shall be shown on the site plan. Such trees to be removed shall be indicated on the site plan. Tree preservation techniques, such as installation of retaining walls, shall be indicated on the site plan and/or in supplemental detail drawings.

SECTION 5.9 FENCE REGULATIONS

5.9-1 Fence Height and Location

1. Residential Districts:
 - a. *Interior Lots:* Fences, having a height of not more than six (6) feet, are permitted in the rear yard and side yards, provided that a fence, greater than three (3) in height, that is located in a side yard shall not extend beyond the established front building face (oriented to front yard) which shall be determined by the projection of a line, from the nearest front/side building corner, perpendicular to the side lot line.
 - b. *Corner Lots:* Fences, having a height of not more than six (6) feet, are permitted in the rear and side yards, provided that a fence, greater than three (3) feet in height, shall not extend beyond either the established front face of the principal building on the lot or the principal building on the adjoining lot, whichever is closest to the street.
 - c. *Reverse Corner Lots of Record:* Fences, having a height of not more than six (6) feet, are permitted between the side of the principal building and the street right-of-way line, provided that such fences, greater than three (3) feet in height, shall be located at or behind the established front building line of the adjoining lot, if said lot developed, or at or behind the minimum front building setback line of the adjoining lot, if not developed.
 - d. *Through Lots:* Fences, having a height of not more than six (6) feet, are permitted in the yard adjacent to the right-of-way that does not serve as the access to the lot and for all intents and purposes is used as the "rear" yard, provided that fences greater than three (3) in height shall not extend beyond the established front building line of a lot fronting onto such right-of-way and located within the same block, or the minimum front building setback line of such lot, if not developed.
 - e. *Front Yards:* Fences, having a height of not more than three (3) feet, are permitted in front yards. Such fences or walls shall comply with the requirements of **Section 5.12** of this Article.
2. Non-Residential Districts:
 - a. In any non-residential district, no fence shall exceed eight (8) feet in height except for recreational courts.
 - b. In non-residential districts, fences are permitted in any yard, with the following limitations:
 - (1) Except for the M-1, M-2, and PA districts, fences in the front yard shall be limited to decorative wood or low masonry walls of architectural quality (brick, stone, or textured and pigmented concrete). The height of such fences shall not exceed six (6) feet in height except columns, that are integral to the fence design, may exceed six (6) feet.
 - (2) Within the PA district, fences are allowed to extend into the front yard only as necessary to contain a playground area or for sport activity areas in parks.

3. Exceptions:

- a. Fence height in dwelling districts may be increased to eight (8) feet, in accordance with **Section 5.8-2** of this Article.
- b. Fences having a height of not more than six (6) feet are permitted in the front yard of a lot within a dwelling district, provided that the lot is five (5) acres or greater in size and such fences shall be at least seventy-five (75) percent open (e.g., post and rail fences).
- c. Recreational courts may be bounded by an open (no slats) chain link fence up to ten (10) feet in height, provided that such fences be located at least twenty (20) feet from any abutting residential property. Such fences in any dwelling district shall be located within the rear yard.
- d. Fences (or walls), used as a decorative feature and/or as a backdrop to an identification sign for a subdivision, apartment, condominium or planned development entrances, may exceed the above stated maximum heights, subject to site plan review and approval (see **Article 8**), compliance with **Section 5.12** of this Article, and compliance with **Section 7.4-3, Article 7, Sign Regulations**.

5.9-2 Fence Materials

1. Except as otherwise provided for in paragraph 2 below, fence material shall be that which is designed and intended for use in fence installations, including decorative masonry (e.g., brick, stone, or textured and pigmented concrete) and decorative wood. Makeshift material such as 2" x 4" lumber and plywood is not permitted, except for temporary protective barriers on properties undergoing construction or demolition activities. All fences shall be maintained in a structurally sound condition and otherwise in a neat and clean appearance.
2. Barbed or razor wire shall not constitute any part of a fence in any dwelling district. In all other districts, barbed or razor wire may be attached to the fence, above six (6) feet.

5.9-3 Fences Surrounding Swimming Pools

Swimming pools shall be completely surrounded with a protective barrier in accordance with Jacksonville Building Code.

5.9-4 Fences at Street Intersections

Fences, at or near street intersections or access private drives, shall comply with **Section 5-12** of this Article.

SECTION 5.10 HOME OCCUPATIONS

Home occupations are permitted as an accessory use to a residential use in any district subject to the requirements of this Section.

5.10-1 Restrictions and Limitations

1. Home occupations shall be operated entirely within the principal residential dwelling and/or accessory buildings and shall not occupy more than twenty-five (25) percent of the total floor area including basement or finished attic spaces, with the use of the dwelling for a home occupation being clearly incidental and subordinate to its use for residential purposes by its occupants.

2. The appearance of the dwelling shall not be altered in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or the emission of sounds, noises or vibrations, except that one (1) non-illuminated sign not greater than one (1) square foot in area may be affixed to the dwelling in which the home occupation is located.
3. Home occupations shall be conducted by only the residents of the dwelling unit and not more than one non-resident of the dwelling unit.
4. No outdoor storage of materials or equipment used in the home occupation shall be permitted.
5. No storage or display of materials, goods, supplies, or equipment related to the operation of a home occupation shall be visible from the outside of the residence.
6. No equipment shall be utilized that creates a nuisance due to odor, vibration, or noise.

5.10-2 Examples of Uses That Frequently Qualify as Home Occupations

The following are typical examples of uses which often can be conducted within the limits established herein and thereby qualify as home occupations. Uses which qualify as home occupations are not limited to those named below, nor does this listing automatically qualify it as a home occupation:

1. Artists, sculptors and authors or composers.
2. Day care homes.
3. Dressmakers, seamstresses, tailors.
4. Home crafts, such as model-making, rug weaving and lapidary work.
5. Ministers, rabbis, priests.
6. Music and dance teachers, provided that instructions shall be limited to one (1) pupil at a time, except for occasional groups (see **Section 5.10-3, paragraph 1.**).
7. Office facilities for architects, engineers, lawyers, realtors, insurance agents, brokers and members of similar professions.
8. Office facilities for sales representatives or manufacturers' representatives, when no sales are made or transacted on the premises (other than by telecommunications).
9. Office facilities for contractors, cleaning services, landscapers, and other similar enterprises.
10. Psychologists, counselors, and social workers, provided that the conduct of services be limited to one (1) client at a time, except for occasional groups (see **Section 5.10-3, paragraph 1.**).

5.10-3 Prohibited Home Occupations

The following uses by their nature have a tendency, once started, to increase beyond the limits permitted for home occupations and thereby impair the use and value of a residentially zoned area. Therefore, the uses specified herein (other than personal) shall not be permitted as home occupation:

1. Any home occupation that involves periodic group meetings/sessions more than four (4) times during any consecutive twelve (12) month period.
2. Any home occupation that involves the congregation of two or more non-resident employees, clients, subcontractors, or other persons engaging in business activity at a dwelling unit.
3. Barber shops and beauty parlors.
4. Dancing schools.
5. Medical or dental offices or clinics, including chiropractors, veterinarians, podiatrists, and similar professions.
6. Motor vehicle repair or service.
7. Painting of vehicles or large household appliances.
8. Tourist home, including bed and breakfast.
9. Home occupations which negatively impacts the residential character of the neighborhood.

SECTION 5.11 TEMPORARY USES

5.11-1 Temporary Uses Permitted

1. Christmas Tree Sales:

Christmas tree sales may be permitted in any of the business districts for a period not to exceed sixty (60) days. The site shall be cleared and cleaned within ten (10) days after Christmas day.

2. Contractor Offices:

Temporary buildings or trailers may be used as construction offices, field offices or for storage of materials to be used in connection with the development of a tract of land, provided that said temporary structures are removed from said tract within thirty (30) days after completion of the development. Temporary buildings or trailers must also be removed from said tract within thirty (30) days after voluntary suspension of work on the project or development or after revocation of building permits, or on order by the Enforcement Officer upon a finding that said temporary structure is deemed hazardous to the public health and welfare.

3. Real Estate Offices:

Temporary real estate sales offices may be established in a display unit in a multi-lot subdivision or multi-unit condominium residential development. Such temporary real estate sales offices shall be established only for the marketing and sale of residential properties within the development project where the sales office is located.

4. Outdoor Amusement Activities:

The Enforcement Officer is authorized to approve the operation or conducting of an outdoor amusement activity on a temporary basis within any zoning district. For the purpose of this paragraph, "outdoor amusement activity" includes a circus, carnival, fair, arts and crafts festival, trade or animal show, concert, rally, parade, athletic competition and any similar activity not involving the erection of any permanent structure or facility. The Enforcement Officer may require such assurance or guarantee of compliance with conditions as is reasonable and appropriate under the

circumstances. This approval is in addition to any building permit, or other permit or license required by law for any proposed activity or facility.

5.11-2 Limitations on Temporary Commercial Uses

1. Notwithstanding other provisions of this ordinance, temporary outdoor sales of products or services shall be limited to the tenant or owner/occupant of commercial property upon which such outdoor sales take place. This shall not apply to temporary outdoor sales that are associated with food or agricultural products approved by the Health Department or non-profit organizations and where such sales are for charitable purposes only, or to temporary on-site services that are accomplished within a two-hour time period (e.g., windshield repair/replacement service).
2. Except for sidewalk sales within the B-2 district, no temporary commercial activity shall take place within a street right-of-way.

SECTION 5.12 VISIBILITY AT INTERSECTIONS

On any corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially obstruct or impede vision between a height of two and one-half (2-1/2) and ten (10) feet above the center line grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines twelve (12) feet from the point of intersection.

SECTION 5.13 PERFORMANCE STANDARDS

5.13-1 Purpose and Intent

The following performance standards are established for the purpose of minimizing any negative impacts caused by a land use on adjacent land uses.

5.13-2 Applicability

Any use, whether existing or hereafter established in the City of Jacksonville or within its extraterritorial jurisdiction (see **Section 1.2** of this ordinance) shall comply with the performance standards of this Section.

5.13-3 Performance Standards

1. *Hazardous Conditions*: Every use shall be so operated as to comply with the applicable standards and enforcement provisions contained in the most current Building Code and Fire Prevention Code, as adopted by the City of Jacksonville.
2. *Vibration*: Every use shall be so operated that the maximum ground vibration generated is not perceptible without instruments at any point on the lot lines of the property on which the use is located.
3. *Noise*: The sound pressure level, to be measured as described below, shall not exceed the following decibels (dB) in the various octave bands when adjacent to the designated types of use districts.

Octave Band (cycles per second)	Sound Level in Decibels (dB)	
	All Dwelling Districts	All Business Districts
37.5 to 75	58	73
75 to 150	54	69
150 to 300	50	65
300 to 600	46	61
600 to 1200	40	55
1200 to 2400	33	48
2400 to 4800	26	41
over 4800	20	35

Method of Measurement: Measurements are to be made at the property line of sound source that is adjacent to a dwelling or business property located within a dwelling or business district. The sound levels shall be measured with a sound level meter and associated octave band filter as prescribed by the American National Standards Institute, Inc.

Intermittent Sounds: Intermittent sounds that normally would be objectionable within residential areas (e.g., exterior paging system) shall be controlled so as not to become a nuisance to a residential area.

4. *Odor & Waste:* Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, refuse, water-carried waste, pollutants or other matter which in any manner creates a nuisance beyond the property line of a particular use.
5. *Glare and Heat:* Any operation producing intense glare or heat shall be performed in an enclosure in such a manner as to be imperceptible along any lot line without instruments.
6. *Exterior Lighting:* Lighting within any property that unnecessarily illuminates another property and interferes with the use and enjoyment of such other property is prohibited. In furtherance of this requirement, all lighting on a lot shall be so arranged or designed using cut-off lenses as necessary to direct light away adjoining properties or streets. Flood and spot lights shall be shielded when necessary to prevent glare on adjoining properties and streets.

5.13-4 Enforcement of Performance Standards

1. Whenever, in the opinion of the Enforcement Officer, there is a reasonable probability that any use or occupancy violates these performance standards, he is hereby authorized to employ qualified professionals or technicians to perform whatever investigations and analyses in order to make a determination on whether or not a violation exists.
2. In the event that a violation is found to exist, the violator shall be liable for the reasonable fee of the professionals and/or technicians employed to perform such investigations and analyses only if the violator has been given reasonable notice of the pending investigation and informed of the violators' liability for the costs of such investigations and analyses. Such fees may be recovered as a penalty in the same manner as, and in addition to, the penalties specified in **Article 10, Section 10.6-2** of this Chapter.

SECTION 5.14 FREESTANDING TELECOMMUNICATION TOWERS**5.14-1 Purpose and Intent**

The intent of this article regarding telecommunication towers is to:

1. Provide a special use review and approval process that is in compliance with federal law.
2. Protect residential areas and land uses from adverse visual impacts of freestanding telecommunication towers.
3. Minimize the total number of towers throughout the community while maximizing the use of each tower that is sited.
4. Enhance the ability of telecommunication carriers to provide services in an effective and efficient manner.

5.14-2 Definitions

1. **Array** shall mean a grouping of radio frequency transmitters erected on a freestanding telecommunication tower or on an existing structure.
2. **Co-location** shall mean equipment affixed to or erected upon existing freestanding or remote freestanding [wireless communication facilities] or other communication towers.
3. **Freestanding telecommunication towers** shall mean any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, for the transmission of various forms of communication, including wireless telephone, radio and television signals, pager signals and other similar communications. This definition includes radio and television transmission towers, microwave towers, cellular telephone towers and other similar communication towers. Electrical transmission and distributions towers, telephone poles and non-commercial freestanding towers shall be excluded from this definition.
4. **Non-commercial freestanding tower** shall mean a tower, satellite dish or similar freestanding structure constructed for the purpose of amateur radio, ham radio or residential television reception.
5. **Publicly owned emergency communications tower** shall mean any structure erected by a public entity for the sole purpose of broadcasting emergency communications.
6. **Tower height** shall mean the measurement from the at grade base of tower to the top of the highest point of the tower or array or any attached structure or device.
7. **Monopole tower** shall mean a structure that is a single, upright pole, engineered to be self-supporting and requiring no guy wires or lateral cross-members.
8. **Lattice tower** shall mean a structure that is self-supporting with multiple legs and cross-bracing of structural steel.
9. **Guy-wire tower** shall mean a structure that is of mono pole or lattice tower design that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.
10. **Stealth tower** shall mean a structure disguised in a way which is designed to blend into the surrounding environment, typically one that is architecturally integrated into a structure.

5.14-3 Waivers and exemptions

The following are considered exempt freestanding facilities and are not governed by this Article.

1. Electrical transmission and distribution towers and telephone poles.

2. Publicly owned emergency communication towers.
3. Wireless radio structure utilized for the temporary emergency communications in the event of a disaster.

5.14-4 Standards for noncommercial freestanding telecommunication towers

The following provisions shall govern noncommercial freestanding towers.

1. A tower must meet the setback requirements for accessory structures.
2. A tower must be setback from adjacent residential structures a distance equal to the height of the tower.
3. A tower may not exceed fifty (50) feet in height in any residential zoning district and must comply with any additional applicable development standards in this Ordinance.

5.14-5 Standards for freestanding telecommunication towers

The following provisions shall govern freestanding telecommunication towers.

1. If a freestanding telecommunication tower is allowed by right, the tower must meet the applicable building setback requirements for the zoning district.
2. A tower within three hundred (300) feet of a residentially zoned parcel, must be setback from that parcel a minimum distance of one and one-half (1.5) times the height of the tower.
3. No tower shall be constructed between the front building line and right of way or required front yard setback whichever is greater.
4. The type and height of tower shall be restricted based on the zoning district in which they are located as provided in **Table 5-A**.
5. All towers must provide the degree of screening based on their proximity to residentially zoned parcels as provided in **Table 5-B**.
6. Co-location on an existing tower shall be allowed by right given that the height of the tower is not changed.
7. A tower constructed completely within an existing building shall be allowed by right.
8. An array constructed on top of or attached to an existing building shall be allowed by right given that the overall height of the building from grade to the top of the array is not increased by more than fifteen (15) feet.

5.14-6 Freestanding telecommunication towers as permitted uses

Freestanding telecommunication towers shall be a permitted use in the A-1, B-3, B-4, ORI, M-1, and M-2 zoning districts and shall contain the appropriate level of screening as defined in **Table 5-B**.

5.14-7 Freestanding telecommunication towers as special uses.

1. Special use approval shall be required for all freestanding telecommunication towers located within the R-1A, R-1, R-2, R-3, R-4, R-5, B-1, B-2, and PA zoning districts.

2. Approval of a special use shall be required if the proposed freestanding telecommunication tower is located on a non-residentially zoned district but within three hundred (300) feet of a residentially zoned district.

5.14-8 Application for special use

No freestanding telecommunication tower that requires approval as a special use as specified in this Article shall receive zoning approval without applying for and receiving approval as a special use from the City Council pursuant to **Article 9** of this Ordinance. The application for special use approval shall include each of the following:

1. A completed special use application.
2. A site plan showing the location of the tower with all property lines, building footprints, and public right-of-way within a distance of two hundred (200) feet.
3. An elevation drawing of the tower depicting all arrays, potential collocation opportunities, and equipment cabinets.
4. Engineering plans stamped by a professionally licensed engineer in the State of Illinois.
5. A map depicting the existing towers within two (2) miles of the proposed tower and a list of carriers supported on those towers.
6. A copy of all Federal Aviation Administration and Federal Communications Commission approval certificates.
7. A landscaping plan in accordance with this article.
8. A propagation map depicting wireless providers current coverage and proposed coverage with construction of new tower.
9. Letters from tower owners within one (1) mile of proposed site acknowledging the inability of co-locating on that tower.
10. Any other information requested by the Enforcement Officer to determine if the conditions for the special use will be met.

5.14-9 Findings for approving a special use

Procedure for the approval of a special use shall be the same as provided for in **Article 9**. Before making any recommendation to City Council to approve or deny the application for a special use, the Plan Commission shall make a determination, based solely upon evidence presented at a public hearing conducted by the Plan Commission, on whether the application satisfies all of the following criteria:

1. That the proposed use conforms to all the applicable regulations and standards of the district in which it shall be located.
2. That the applicant has analyzed all co-location opportunities and identified all potential locations within existing structures to place their tower and has otherwise pursued all possible alternatives to the construction of a new facility.
3. That the proposed use is reasonably necessary to provide wireless communications services to the area.

Should a tower not be approved by City Council, the Enforcement Officer shall issue to the applicant a written explanation of the action.

5.14-10 Existing towers

1. Freestanding Telecommunication Towers existing as of March 1, 2012 will be exempt from the special use approval requirement and the provisions of this Article with the exception that, if not already provided, an eight-foot opaque fence shall be constructed to enclose the tower and all associated equipment around the base of the tower within six (6) months of the adoption.
2. Any change in type or height of a tower built before March 1, 2012 shall be subject to the provisions of this article.

5.14-11 Removal of freestanding telecommunication towers

1. If a freestanding telecommunications tower is no longer being used for the purpose of transmission, the owner shall notify the City within sixty (60) days of the time the use ceases.
2. If a freestanding telecommunications tower is believed to be inoperable, the City shall notify the tower owner and seek written proof that the tower is still in operation.
3. In the event that a freestanding telecommunications tower becomes inactive for more than sixty (60) days, the tower shall be removed by the owner within one hundred twenty (120) days after written notification from the City.
4. In the event that a freestanding telecommunications tower has not been removed within one hundred twenty (120) days after notification by the City, the tower is hereby declared a public nuisance and the provisions in **Chapter 19** "Nuisances" shall apply. *[Editor's note: City may need to update Chapter 19 to deal with abandoned structures or structures failing to comply with Article 5, Section 5.14-11 of the zoning ordinance].*

**Table 5-A
Freestanding Telecommunication Towers**

Zoning District	Permitted or Special Use	Max. Height	Type Permitted
A-1 Agricultural Dist.	Permitted/Spec. Use	300 ft.	mono/stealth/lattice guy-wire
R-1, R-1A, R-2, R-3, & R-6 Dwelling Dist.	Special Use	100 ft.	mono/stealth
R-5 Dwelling Dist.	Special Use	120 ft.	mono/stealth
B-1, B-2, B-3 & B-4 Business Dist.	Special Use	120 ft.	mono/stealth
ORI Office, Research, Light Industrial District	Special Use	200 ft.	mono/stealth
M-1 Light Industrial Dist.	Permitted/Spec. Use	300 ft.	mono/stealth/lattice guy-wire
M-2 Heavy Industrial Dist.	Permitted/Spec. Use	300 ft.	mono/stealth/lattice guy-wire
PA - Public Activity Dist.	Special Use	200 ft.	mono/stealth

**Table 5-B
Telecommunication Tower Screening Requirements**

Distance from Dwelling Dist. ¹	Screening Requirments
> 500 ft.	A fence shall be constructed to a height of eight (8) feet and enclose the tower and associated facilities.
> 200 ft. to 500 ft.	An opaque fence shall be constructed of wood, masonry, or synthetic material to a height of eight (8) feet and enclose the tower and associated facilities.
< 200 ft.	An opaque fence shall be constructed of wood, masonry, or synthetic material to a height of eight (8) feet and enclose the tower and associated facilities. In addition, perimeter landscaping, consisting of trees and/or shrubs, shall be provided. Trees and shrubs may be combined, but in no case shall there be a gap between landscaping materials of more than three (3) feet, except for the service entry gate.

¹ Including PD-R District.

SECTION 5.15 WIND ENERGY CONVERSION SYSTEMS**5.15-1 Purpose and Intent**

The intent of this section regarding wind energy conversion systems is to:

1. Provide regulations for the construction and operation of wind energy conversion systems in the City of Jacksonville and within the one and one-half (1.5) mile radius surrounding the zoning jurisdiction of the City of Jacksonville.
2. Provide regulations to facilitate the development of wind energy conversion systems, while protecting adjacent land uses from adverse noise, visual, and other negative impacts that may be associated with a wind energy conversion system.
3. Facilitate the development of low impact, sustainable energy sources within the City of Jacksonville and its extraterritorial jurisdiction.

5.15-2 Definitions

The following terms when used in this Section shall have the meaning specified herein except where the context clearly indicates or requires a different meaning.

Diameter, rotor shall mean the length of any rotor, or blade, as measured from the tip of the rotor to the center of the turbine multiplied by two (2).

Extraterritorial wind energy conversion system or Extraterritorial WECS shall mean any WECS which is or may be located within the extraterritorial jurisdiction.

Extraterritorial jurisdiction shall mean any area which is:

1. Located outside, but within one and one-half (1.5) miles of the corporate limits of the City; and
2. Is not located within the subdivision jurisdiction of another city or village.

Facility owner shall mean any person or entity having an equity interest in a WECS.

Institutional use shall mean an educational facility, golf course, sports arena, religious institution, athletic field or publicly owned property, provided that, said term shall exclude parks and cemeteries whether publicly or privately owned.

Operator shall mean any person or entity responsible for the day-to-day operation and maintenance of a WECS.

Publicly owned property shall mean land, buildings or structures owned by any governmental body or public agency including city, county, state or federally owned properties, other than public rights-of-way.

Shadow flicker shall mean the moving shadows or shaded areas which are cast by rotating turbine blades.

Wind energy conversion system height shall mean the height of a freestanding wind energy conversion system must be measured as the distance from the ground level to the highest point on the tower, including the vertical length of any extensions such as the rotor blade. The height of a building mounted wind energy conversion system shall be measured as the distance from the point where the base of the system is attached to the building or to the lowest point on the wind energy conversion system, whichever is closer to the ground, to the highest point on the wind energy conversion system, including the vertical length of any extensions such as the rotor blade.

Tower, monopole shall mean a wind energy conversion system tower consisting of a single pole, constructed without guy wires and anchors.

Wind energy conversion system or WECS shall mean an electric generating facility, whose main purpose is to supply wind-generated electricity, consisting of one (1) or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

Wind Energy Conversion Structure or wind turbine shall mean a device that converts wind energy into electricity through the use of either a horizontal or vertical axis wind turbine generator, and includes the nacelle, rotor, tower and pad transformer, if any.

Wind energy conversion system, building mounted shall mean a wind energy conversion system located on a building.

5.15-3 Site Requirements

In addition, to meeting any other applicable requirements in this Code, wind energy conversion systems shall be constructed in accordance with the restrictions set forth in this Section:

1. ***Wind Energy Conversion Structure Height and Rotor Blade Diameter Restrictions:*** The height of a wind energy conversion structure and the diameter of the motor blade shall not exceed the following restrictions for various uses and zoning districts. The height of a wind energy conversion structure shall be measured from ground level to the top of the highest blade at the highest point extended.
 - a. For Single and Two-Family dwellings, Multi-Family dwellings, and Non-Residential uses within the R-1, R-1a, R-2, R-3, R-4, R-5, and R-6 Zoning Districts the maximum height of a wind energy conversion structure, shall be may not exceed one hundred (100) feet. The maximum diameter, as measured from the tip of the rotor or blade to the center of the turbine multiplied by two (2), shall not exceed fifty (50) feet.
 - b. For any use that is located in a non-residential district and located within 1,000 feet of the boundary of a lot zoned or planned for residential land use, the maximum height of a wind energy conversion structure shall be one hundred (100) feet and the maximum diameter of the rotors, or the blades, shall be fifty (50) feet. For any use that is located in a non-residential district and more than 1,000 feet away from any boundary of a lot zoned or planned for residential use the maximum height of a wind energy conversion structure shall be one hundred seventy five (175) feet. The maximum diameter of the rotors, or the blades, for wind energy conversion systems shall not exceed one hundred (100) feet.
 - c. Building mounted Wind Energy Conversion Systems in residential zoning districts shall not exceed ten (10) feet higher than the highest point on the roof of the structure it is mounted to.
2. ***Setbacks:*** Setback requirements for wind energy conversion structures. The minimum setback from the property line for any wind energy conversion structure shall be the total height of said structure measured from ground level.
3. ***Noise:*** No wind energy conversion system or combination of wind energy conversion systems on a single parcel shall create noise that exceeds the regulatory standards set by the Illinois EPA Pollution Control Board at any property line where the property on which the wind energy conversion system is located. Measurement of sound levels shall not be adjusted for, or averaged with, non-operating periods. Any wind energy conversion system exceeding this level shall immediately cease operation upon notification by the Enforcement Officer and may not resume operation until the noise levels have been reduced in compliance with the required standards and verified by an independent third party inspector, approved by the City of Jacksonville, at the property owner's expense. Upon review and acceptance of the third party noise level report,

4. *Multiple Wind Systems:*
 - a. Multiple wind systems may be allowed if they meet all regulations as required herein.
 - b. The number of wind turbines on any given parcel of land shall be limited to:
 - (1) Three (3) wind energy conversion structures for parcels of land having an area of five (5) acres or less.
 - (2) Five (5) wind energy conversion structures for parcels of land having an area, greater than five (5) acres and not exceeding ten (10) acres.
 - (3) There shall be no limit to the number of wind energy conversion structures for parcels of land having an area greater than ten (10) acres.
 - c. There shall be no limit to the number of roof mounted wind energy conversion systems on any given parcel of land.
5. *Force Wind Standards:* Wind Energy Conversion Systems must be engineered to withstand wind forces of up to one hundred ten (110) miles per hour.
6. *Removal of nuisance wind systems or turbines:*
 - a. The Wind Energy Conversion System or individual turbine is hereby declared to be a public nuisance if it has been inoperable or has not been operated to generate any electricity for one hundred eighty (180) or more consecutive days.
 - b. Upon receipt of written notice from the Enforcement Officer or Officer's designee that a Wind Energy Conversion System or individual wind turbine has become a public nuisance as defined in paragraph (1) above, the Owner of a wind energy conversion system and associated facilities shall have one hundred eighty (180) days to restore the wind energy conversion system or individual turbine to operating condition and operation for the generation of electricity or remove it from the property, provided that in the event the Enforcement Officer or Officer's designee determines that, because of its condition, the WECS or individual turbine poses a great and immediate threat to the public health, safety, or welfare, then the City may remove the structure(s) that specifically pose such a great and immediate threat without any prior notice to said owner, assess the owner for all costs incurred for said removal and file a lien for said costs in the manner provided herein.
 - c. A written notice of public nuisance described herein may be personally delivered to the owner or authorized agent of the WECS in question, or delivered by First Class U.S. Mail. A written notice delivered by First Class U.S. Mail shall be deemed received by said owner three (3) business days after its deposit in the U.S. Mail system.
 - d. The failure of any owner to comply with the requirements to either restore to operation or remove a public nuisance WECS or individual turbine as provided herein shall be deemed a violation of this Zoning Ordinance and shall be deemed implied consent by said owner to the City to allow the City to remove, or hire someone else to remove said wind system or individual turbine, as the case may be, and to charge said owner for the entire cost of said removal. Said cost of removal incurred by the City shall be deemed a lien against the property, and the City shall be authorized to file a notice of said lien in the Office of the Morgan County Recorder of Deeds for the cost of removing the wind energy conversion system. Removal of a wind energy conversion system that constitutes a public nuisance shall include removal of: the turbines, tower, and any above ground improvements, including fencing.
 - e. The City may foreclose upon any lien for removal costs as provided herein in accordance with the procedures provided for foreclosure of a mortgage in the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101 et seq.

7. *Signage*: Commercial marking, messages, banners, or signs of any kind on the wind energy conversion system or tower shall be prohibited.
8. *Tower Access*: The tower shall not be accessible for climbing. No rungs shall be provided for the first twelve (12) feet of the tower, the climbing apparatus shall be covered, and any other approved preventative measures, which may be applicable.
9. *Color*: The exterior color of the wind energy conversion system shall be limited to black, white, off-white, and grey, and the surface shall be non-reflective.
10. *Lighting*: No lights shall be installed on the tower, unless required to meet FAA regulations.
11. *Building Permit for Extra-territorial Wind Energy Conversion Systems*: An application to site and construct an extraterritorial WECS shall be considered by the City in the same manner as if the applicant had submitted an application for the placement of a WECS within the corporate limits of the city. The applicant, facility owner, operator and any participating landowner with respect to any approved application for an extraterritorial WECS shall be subject to the terms and conditions of this Ordinance and any approving ordinance or resolution in the same fashion and to the same extent as if the WECS were located within the corporate limits of the City.
12. *Shadow Flicker*:
 - a. Wind Conversion Energy Systems shall be designed and located to minimize shadow flicker. Shadow flicker expected to fall on a roadway or a residential structure shall be acceptable under the following circumstances:
 - (1) The flicker, assuming sunlight will not be obscured by cloud cover during the entire course of the year, will not fall on the location of concern for more than thirty (30) hours per year; and
 - (2) With regards to flicker falling on roadways, the traffic volumes are less than five hundred (500) vehicles per day on the roadway.
 - b. The applicant shall provide a shadow flicker model for any wind energy conversion system over one hundred fifty (150) feet tall. The shadow flicker model shall demonstrate that the wind energy conversion system meets the stated provisions.
13. *Vibrations*: The Wind Energy Conversion Structure shall not cause any vibrations detectible by persons without the aid of scientific instruments on any adjacent property.
14. *Tower Type*: In residential districts, the type of tower a wind turbine may be mounted on shall be restricted to a monopole tower.
15. *Minimum Ground Clearance*: The blade tip of a Wind Energy Conversion System, at its lowest point, shall have a ground clearance of no less than twenty (20) feet.
16. *Electromagnetic Interference*:
 - a. The Wind Energy Conversion System shall not cause any electromagnetic interference with any radio, television, microwave communication, or satellite navigation on other properties.
 - b. If the Wind Energy Conversion System is found to cause electromagnetic interference on other properties, the owner shall make any necessary and reasonable changes to the Wind Energy Conversion System within ninety (90) days of notice from the Enforcement Officer, including removal or relocation of the Wind Energy Conversion System to eliminate any electromagnetic interference.

17. *Energy Efficient Subdivision:*

- a. Any subdivision which is developed with the specific intention of providing wind energy to the property owners within the subdivision shall be allowed to construct a Wind Energy Conversion System on a commons lot to be maintained by the home owners association.
 - (1) A wind energy conversion system within an energy efficient subdivision shall not be required to meet any setbacks.
 - (2) A wind energy conversion system within an energy efficient subdivision shall be required to be constructed prior to the issuance of any building permits for any structures within the subdivision.
 - (3) A wind energy conversion system within an energy efficient subdivision shall not exceed a maximum height of a wind energy conversion structure shall be one hundred seventy-five (175) feet. The maximum diameter of the rotors, or the blades, for wind energy conversion systems more than one hundred (100) feet.
 - (4) A wind energy conversion system within an energy efficient subdivision shall meet all other requirements of this ordinance.

18. *Proposed Wind Energy Conversion Systems exceeding the Height regulations of this ordinance:*

- a. Proposed Wind Energy Conversion Systems which exceed the height limitation of this ordinance shall require approval as a special use pursuant to **Article 9** of this Ordinance.
- b. The approval of a WECS as a special use shall be based upon the following findings of fact:
 - (1) That the proposed wind energy conversion system is designed, located, and proposed to be operated so that it will not be unreasonably injurious or unreasonably detrimental to the district in which it may be located or otherwise injurious to the public welfare. It shall be the applicant's burden to submit evidence to demonstrate the anticipated impacts of the proposed wind energy conversion system.
 - (2) Other than height regulations in this Section, the proposed use conforms to all the applicable regulations and standards of the district in which it shall be located.

19. The approval of a WECS to exceed the height limitations of this Ordinance shall only be allowed in the A-1, M-1, and M-2 Zoning Districts. The approval of a WECS to exceed the height limitations shall not be allowed in areas that are less than one thousand five hundred (1,500) feet away from any dwelling district or areas planned for residential land uses by the City of Jacksonville Future Land Use Map in the Comprehensive Plan and its subsequent amendments and updates.

20. The application for special use approval shall include the following documentation:

- a. A noise study, prepared by a qualified professional, demonstrates that except for intermittent episodes, the wind energy conversion system shall not emit noise in excess of the limits established by the State of Illinois Pollution Control Board. The noise study shall include:
 - (1) A description and map of the projects noise producing features, including the range of noise levels expected, and the basis of the expectation.
 - (2) A description and map of the noise sensitive environment, including any sensitive noise receptors e.g. residences, hospitals, libraries, schools, places of worship, parks, areas with outdoor workers and other

- facilities where quiet is important or where noise could be a nuisance within one thousand (1,000) feet.
- (3) A description of the project's proposed noise control features and specific measures proposed to mitigate noise impacts for sensitive receptors as identified above to a level of insignificance.
- b. A shadow flicker model that demonstrates that shadow flicker shall not fall on, or in, any existing residential structure and that establishes that shadow flicker expected to fall on a roadway or a portion of a residentially zoned parcel may be acceptable if the flicker does not exceed thirty (30) hours per year at the location of concern; and the flicker will fall more than one hundred feet (100') from an existing residence; or the traffic volumes are less than five hundred (500) vehicles on the roadway that is impacted by the flicker. The shadow flicker model shall:
- (1) Map and describe within a one thousand-foot radius of the proposed dispersed wind energy system the topography, existing residences and location of their windows, locations of other structures, wind speeds and directions, existing vegetation and roadways. The model shall represent the most probable scenarios of wind constancy, sunshine constancy, and wind directions and speed;
 - (2) Calculate the locations of shadow flicker caused by the proposed project and the expected durations of the flicker at these locations, calculate the total number of houses per year of flicker at all locations;
 - (3) Identify problem areas where shadow flicker will interfere with existing or future residences and roadways and describe proposed mitigation measures, including, but not limited to, a change in siting of the wind energy conversion system, a change in the operation of the wind energy conversion system, or grading or landscaping mitigation measures.