

**Article 9: Supplemental Regulations**

**Section 9.01 Home Occupations and Home-Based Businesses in Residential Districts**

***9.01.01 Intent:***

A home occupation or home-based business shall be permitted when said occupation or business is conducted on residentially used and/or zoned property and is considered customary, traditional, and incidental to the primary use of the premises as a residence, and shall not be construed as a business.

***9.01.02 Procedure:***

1. Home Occupations: An application for a home occupation, within residentially zoned areas shall be made to the Victoria Zoning Administrator on a form provided. Said application shall be approved, provided the performance criteria are met.
2. Home Based Businesses: An application for a home-based business, within residentially zoned areas shall be made to the Victoria Zoning Administrator on a form provided. Said application shall be approved, provided the performance criteria are met.

***9.01.03 Permitted home occupations:***

1. Workrooms for dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, jewelry making, custom home furnishings work, carpentry work, and furniture repair.
2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, dentists, doctors, draftspersons, insurance agents, accountants, editors, publishers, psychologists, contract management, graphic design, construction contractors, landscape design, surveyors, cleaning services, salespersons, and travel agents.
3. Child Nurseries or Child Care
4. Personal services, including Barber and Beauty Shops (limited to two chairs), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
5. Instructional services, including music, dance, art and craft classes and tutoring.
6. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines (limited to garage areas).
7. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
8. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.
9. Kennels or veterinarian clinics/hospitals.

***9.01.04 Prohibited home occupations:***

1. Medical and dental clinics, hospitals.
2. Restaurants, clubs, drinking establishments.
3. Motor vehicle / small engine repair.
4. Adult Entertainment Uses

***9.01.05 Performance Standards for Home Occupations:***

1. The primary use of the structure or dwelling unit shall remain residential and the operator of the home occupation shall remain a resident in the dwelling unit.
2. The operator conducting the home occupation shall be the sole entrepreneur, and the operator shall not employ any other person other than a member of the immediate family residing on the premises.
3. No structural additions, enlargements, or exterior alterations changing the residential appearance to a business appearance shall be permitted.
4. No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home occupation.
5. Such home occupations shall be conducted entirely within the primary building or dwelling unit used as a residence.
6. Additional and/or separate entrance(s) that do not match the residential structural design shall not be constructed for the purpose of conducting the home occupation or home-based business.



7. Additional off-street parking or loading facilities, including additional driveway construction, other than the requirements for the permitted residence, shall be permitted.
8. The display of goods and/or external evidence of the home occupation shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.
9. No retail sales are permitted from the site other than incidental sales related to services provided.
10. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
11. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
12. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Kansas State Statutes.

**9.01.06 Permitted home-based businesses:**

1. Workrooms for custom home furnishings work, carpentry work, and furniture repair.
2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, draftspersons, insurance agents, accountants, editors, publishers, psychologists, contract management, graphic design, construction contractors, landscape design, surveyors, cleaning services, salespersons, and travel agents.
3. Personal services, including Barber and Beauty Shops (limited to two Chairs), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
4. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines (limited to garage areas).
5. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
6. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.
7. Child Nurseries or Child Care
8. Kennels or veterinarian clinics/hospitals.

**9.01.07 Prohibited home based businesses:**

1. Medical and dental clinics, hospitals.
2. Restaurants, clubs, drinking establishments.
3. Motor vehicle / small engine repair.
4. Adult Entertainment Uses

**9.01.08 Performance Standards for Home Based Businesses:**

1. The primary use of the structure or dwelling unit shall remain residential, and the operator of the home-based business shall remain a resident in the dwelling unit.
2. The operator conducting the home-based business shall be the sole entrepreneur. However, the operator may employ immediate family members residing on the premises, as well as, an additional two unrelated individuals for purposes of conducting business.
3. Structural additions, enlargements, or exterior alterations may be completed in order to provide space for the home-based business. Any alterations and additions are limited to a one-time expansion and shall be limited to 25 percent of the floor area of the main floor at the time of application. All alterations and additions shall meet all building and zoning criteria of Victoria.
4. No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home based business.
5. Such home based business shall be conducted entirely within the primary building or dwelling unit used as a residence. Home based businesses may also be located with an existing Accessory Building.
6. Home based businesses conducted within an Accessory Building shall be confined to the structure of the said Accessory Building. In addition, the applicant must prove that the Accessory Building meets all Life Safety Codes including electrical compliance for a commercial business.



7. All alterations and additions shall be completed in a manner that matches the existing structure and shall have a residential appearance to the exterior. All separate entrance(s) shall be discrete and match the residential design.
8. Additional off-street parking or loading facilities, beyond the parking provided for the residence, shall be provided and shall meet the following standards:
  - a. Two additional spaces for the unrelated employees.
  - b. Two additional spaces to be used for client/visitor parking.
  - c. The additional parking required in items (a) and (b) shall not be provided in any required Front, Side or Rear Yard setback.
  - d. All additional parking and loading spaces shall be screened using landscaping materials and opaque privacy fencing not more than six feet in height.
  - e. Applicant shall not relocate parking for the residence into any Front, Side or Rear Yard Setback in order to provide the additional parking.
  - f. All new off-street parking is encouraged to be toward the rear yard portion of the property and screened from view from the street.
9. The display of goods and/or external evidence of the home-based business shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.
10. No retail sales are permitted from the site other than incidental sales related to services provided.
11. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
12. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
13. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Kansas State Statutes.

**9.01.09 Revocation:**

1. Conditions. A home occupation and home-based business permit granted in accordance with the provisions of this section may be terminated if the Zoning Administrator makes any of the following findings:
    - a. That any condition of the home occupation or home-based business permit has been violated.
    - b. That the use has become detrimental to the public health or safety or is deemed to constitute a nuisance.
    - c. That the permit was obtained by misrepresentation or fraud.
    - d. That the use for which the permit was granted has ceased or has been suspended for six consecutive months or more; and
    - e. That the condition of the premises, or the district of which it is a part, has changed so that the use may no longer be justified under the purpose and intent of this section.
  2. Appeal. Within five working days of a revocation, an appeal may be made to the Victoria Board of Zoning Appeals. The Zoning Administrator within ten working days of the receipt of an appeal of his or her revocation shall report his or her findings of fact and decision to the Victoria Board of Zoning Appeals. The Victoria Board of Zoning Appeals shall determine the facts and may revoke, modify or allow to remain unchanged the home occupation or home-based business permit in accordance with the Board's final determination.
  3. Nontransferable. A home occupation or home-based business permit granted in accordance with the provisions of this article shall not be transferred, assigned, nor used by any person other than the permittee, nor shall such permit authorize such home occupation at any location other than the one for which the permit is granted.
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**Section 9.02 Radio, Television and Wireless Communication Towers****9.02.01 Intent:**

Based upon the Communications Act of 1934, as amended by the Telecommunications Act of 1996 and the Spectrum Act of 2012 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunication services. This section is intended to regulate towers, telecommunications facilities and antennas in the City in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication service. Telecommunication facilities, towers and antennas in the City, to protect residential areas and land uses from potential adverse impact of installation of towers and antennas through careful design, siting, and camouflaging, to promote and encourage shared use/collocation of towers and other antenna support structures rather than the construction of additional single use towers, to avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound and to ensure that towers and antennas are compatible with surrounding land uses.

**9.02.02 Definitions:**

All terms in this Section which are not specifically defined herein shall be construed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996, the Spectrum Act of 2012 and the Rules and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings:

**Base Station** shall mean a structure that supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a base station at the time of the application is filed.

**Broadcasting Tower** shall mean a structure for the transmission or broadcast of radio, television, radar, microwaves or other electromagnetic frequencies which exceeds the maximum height permitted in the district in which it is located; provided, however, that noncommercial towers not exceeding 50 feet in height shall not be considered broadcast towers.

**Collocation** shall mean the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

**Conforming commercial earth station** shall mean a satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.

**Eligible facilities request** is defined as any request for modification of an existing wireless tower or base station that involves (a) collocation of new transmission equipment; (b) removal of transmission equipment; or (c) replacement of transmission equipment.

**In Writing** refers to the means in which an applicant for a telecommunications tower is notified. The "in writing" clause has been defined to include the minutes of the governing body's proceedings including findings of fact.

**Owner** shall mean any person with a fee simple title or a leasehold exceeding ten years in duration to any tract of land within the zoning jurisdiction of the County who desires to develop, construct, modify, or operate a tower upon such tract of land.

**Replacement** shall mean the removal and upgrade of transmission equipment and not the structure on which it is located.

**Specific and absolute timeframe** this refers to the timeframe allowed for processing a telecommunication application under Section 6409 (a) of the Spectrum Act of 2012.

**Stealth:** Any telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than a tower, such as light poles, power poles and trees.



**Telecommunications Facilities** shall mean any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include a. Any Conforming Commercial Earth Station antenna two meters or less in diameter. b. Any earth station antenna or satellite dish antenna of one meter or less in diameter.

**Tower** shall mean any structure built for the sole or primary purpose of supporting any Commission-licensed or authorized antennas and their associated facilities.

**Tower owner** shall mean any person with an ownership interest of any nature in a proposed or existing tower.

**Transmission Equipment:** any equipment that facilitates transmission for any Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas and other relevant equipment associated with and necessary to their operation, including coaxial or fiber-optic cable, and regular and backup power supply.

**9.02.03 Tower Construction Standards:**

Listed below are tower construction standards.

1. Towers shall be permitted via Conditional Use Permit in only those zoning districts where specifically listed and authorized in this regulation.
2. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the City prior to approval of its application for a Conditional Use Permit by the City Council and issuance of the permit by the City.
3. All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the City after the effective date of this regulation shall conform to the Building Codes and all other construction standards set forth by the City, County, federal, and state law and applicable American National Standards Institute (ANSI). Upon completion of construction of a tower and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed with the Zoning Administrator.

**9.02.04 Application to Develop a Tower:**

1. Prior to commencement of development or construction of a tower, an application shall be submitted to the Zoning Administrator for a Conditional Use Permit and shall include the following:
  - A. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.
  - B. The legal description and address of the tract of land on which the tower is to be located.
  - C. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one-mile radius of the proposed tower, including publicly and privately owned towers and structures.
  - D. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants' telecommunications facilities on a tower or useable antenna support or written technical evidence from an engineer that the applicants' telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure.
  - E. Written technical evidence from an engineer that the proposed tower will meet the established Building Code, and all other applicable construction standards set forth by the City Council and federal and state and ANSI standards.
  - F. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and / or zoned property and nearest roadway, street or highway.



G. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.

- H. The application, based upon the specific and absolute timeframe established by the FCC, shall be processed and decided within 60 days of the application becoming completed. However, the 60 day application processing period may be extended only:
- i. By mutual agreement between the City of Victoria and the applicant, or
  - ii. By Victoria's determination that the application is incomplete.
    1. If the City of Victoria deems the application to be incomplete, the City shall notify the applicant of the incompleteness within 30 days of the initial filing.
    2. The City shall clearly and specifically delineate writing the missing information.
    3. The clock shall resume when the information is provided but may be tolled again if the City of Victoria notifies the applicant within 10 days that the application remains incomplete.
    4. The City shall not request new information beyond what is already required.
  - iii. If the application is not acted upon within 60 days, the application shall be deemed to be approved by the governing body.

#### **9.02.05 Setbacks and Separation or Buffer Requirements**

Listed below are setbacks and separation requirements for towers and exception to height restrictions of towers.

1. All towers up to 50 feet in height shall be setback on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of 50 feet in height shall be set back one additional foot for each foot of tower height in excess of 50 feet. The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.
2. Freestanding and guyed towers shall be located so that the distance from the base of the tower to any adjoining property line or the supporting structure of a separate neighboring tower is a minimum of 100 percent of the tower height. The Planning Commission and City Council may reduce the setback with a conditional use permit if it determines that such reduction does not constitute a hazard to safety or property on adjacent properties or rights-of-way.
3. Towers exceeding 100 feet in height may not be located in any residentially zoned district and must be separated from all residentially zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of 200 feet or 100 percent of the height of the proposed tower, whichever is greater.
4. Towers of 100 feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of one hundred percent (100%) of the height of the tower.
5. Towers must meet the following minimum separation requirements from other towers:
  - A. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of 750 feet.
  - B. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of 1,500 feet.
6. Towers shall be held to all height requirements as prescribed in any Airport Hazard Area.
7. As part of its conditional use approval process, the Planning Commission and City Council may, after public notice and hearing, permit the tower to exceed the height restrictions otherwise allowable in the district.

#### **9.02.06 Structural Standards for Towers Adopted:**

The Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, 1991 Edition (ANSI/EIA/TIA 222-E-1991) is hereby adopted, together with any amendments thereto as may be made from time to time, except such portions as are hereinafter deleted, modified, or amended by regulation and set forth in this Article of the Zoning Regulation.

#### **9.02.07 Illumination and Security Fences:**

1. Towers shall not be artificially lighted except as required by the FAA. Any tower subject to this Section that is required to be lit under FAA requirements and using a strobe light shall be equipped with dual



mode lighting. In no case shall said tower be allowed to operate a strobe lighting system after sunset and before dawn.

2. All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will preclude to the extent practical, unauthorized climbing of said structure.

**9.02.08 Exterior Finish:**

Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, subject to review and approval by the Planning Commission and City Council as part of the application approval process. All towers that must be approved as a conditional use shall be stealth design unless stealth features are impractical, or the cost of such features represents an undue burden on the applicant.

**9.02.09 Landscaping:**

All tracts of land on which towers, antenna support structures, telecommunications facilities and/or antennas are located shall be subject to the landscaping requirements of the City.

**9.02.10 Prohibitions**

According to the FCC, "[A] state or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station."

**9.02.11 Substantial Change**

The City of Victoria may only require an amended conditional use permit for changes/modifications on a telecommunication tower/system that are defined by the FCC as substantial.

1. **Substantial Change** shall mean any of the following:

A. Towers outside the public right-of-way, a "substantial change"

- increases the height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, or
- Protrudes from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater.

B. Towers in the right-of-way, and all base stations, a "substantial change"

- increases the height of the tower or base station by more than 10% or 10 feet, whichever is greater, or
- protrudes from the edge of the structure more than 6 feet

C. All Towers and base stations, a substantial change:

- involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets.
- entails any excavation or deployment outside the current site of the tower or base station;
- defeats the existing concealment elements of the tower or base station; or
- does not comply with conditions associated with the prior approval of construction or modification of the tower or base station unless the non-compliance is due to any of the "substantial change" thresholds identified above.

2. **Changes in Height**

A. Changes in height are to be measured from the original support structure in cases where the deployments are or will be separated horizontally.

B. In other circumstances, changes in height are to be measured from the dimensions of the original tower or base station and all originally approved appurtenances, and any modifications approved prior to the passage of the Spectrum Act.

C. Note, the changes are measured cumulatively; otherwise a series of small changes could add up to a cumulative change that exceeds the "substantial change" threshold.



**9.02.12 Inspections**

The City reserves the right to conduct inspection of towers, antenna support structures, telecommunications facilities and antenna upon reasonable notice to the tower owner or operator to determine compliance with this Section and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to determine compliance with the City's Zoning Codes and any other construction standards set forth by the City, federal, and state law or applicable ANSI standards. Inspections shall be made by either an employee of Victoria's Zoning Office, or a duly appointed independent representative of the City.

**9.02.13 Maintenance**

The towers, antenna support structures, telecommunications facilities and antennas shall at all times be kept and maintained in good condition, order and repair so that the same does not constitute a nuisance to or a danger to the life or property of any person or the public.

**9.02.14 Abandonment**

If any tower shall cease to be used for a period of one year, the Zoning Administrator shall notify the tower owner that the site will be subject to determination by the Zoning Administrator that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have 30 days to show preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower has been in use or under repair during the relevant period, the Zoning Administrator shall issue a final determination of abandonment of the site and the tower owner shall have 75 days thereafter to dismantle and move the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee and a written request shall be directed to the City Attorney to proceed to abate said public nuisance pursuant to authority of the Revised Kansas State Statutes and City of Victoria codes, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.

**9.02.15 Approval Denial Procedures for Tower Development Permit**

1. Any decision to deny an application to place, construct or modify a wireless facility must be "in writing" and supported by substantial evidence contained in a written record.
2. The regulation of placement, construction, and modification of personal wireless services facilities by the City of Victoria shall not unreasonably discriminate among providers of functionally equivalent services.
3. The regulation of the placement, construction, and modification of personal wireless service facilities by the City of Victoria shall not prohibit or have the effect of prohibiting the provision of personal wireless services.
4. The City of Victoria shall not regulate the placement, construction, or modification of personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such emissions comply with FCC regulations.

**Section 9.03 Residential Design Manufactured Homes**

In order for residential design manufactured homes to have substantially the appearance of an on-site, conventionally built, single-family dwelling, the following criteria and standards shall apply:

1. The pitch of the roof of the manufactured home has a minimum vertical rise of 2.2 inches for each 12 inches of vertical run, and the roof is finished with a type of shingle that is commonly used in standard residential construction.
2. All roof structures shall provide an eave projection of no less than eight inches, which may include a gutter.
3. The exterior siding consists predominantly of vinyl or metal horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in residential construction.
4. The manufactured home is set up in accordance with the recommended installation procedures of the manufacturer and the standards set by the National Conference of States on Building Codes and Standards and published in "Manufactured Home Installations, 1994" (NCS BCS A225.1), and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access which may include walk-out basements and garages, is installed under the perimeter of the manufactured home.



5. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the manufactured home shall be installed or constructed firmly to the primary structure and anchored securely to the ground.
6. The moving hitch, wheels and axles, and transporting lights shall be removed.

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**Section 9.04 Group Boarding Home, Group Day Care Home, Child Care Center, Day Care Center, Detention Center, Family Day Care Home, or Residential Center**

These facilities shall be required to meet the following requirements:

1. The applicant shall submit, as a part of the application, the plans for the proposed facility giving the type of services to be rendered, the number of persons to be placed in the facility, the number of staff to be employed and other information that will help in determining the extent of services to be provided.
2. A letter from the Ellis County Health Officer shall be submitted by the applicant, giving the current status of the applicant's license to operate the proposed facility and listing all requirements yet to be met in order for the proposed facility to be granted authorization to begin its operation.
3. Off-street parking at a rate of one space per employee plus two additional spaces for guests.
4. When operated out of an existing or proposed residential structure, the following standards shall be met:
  - A. That only one non-illuminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.
  - B. Outside play areas shall be fenced.

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**Section 9.05 Hospital or clinic for large or small animals**

These uses shall meet the following criteria:

1. Such hospital or clinic and treatment rooms be maintained within a completely enclosed, soundproof building, and
2. Such hospital or clinic be operated in such a way as to produce no objectionable odors outside its walls.

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**Section 9.06 Kennels (Boarding or Breeding)**

These uses shall meet the following criteria:

1. Pens or open kennels shall be located at least 50 feet from the front lot line and at least 30 feet from any side or rear lot line.
2. Open pens shall not be required to be served by sanitary sewer facilities unless soil conditions will not support adequate percolation.

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**Section 9.07 Fences**

9.07.01 No fence shall be constructed within the zoning jurisdiction of the City of Victoria unless a permit is approved and issued by the Zoning Administrator and is constructed in conformance with the following requirements:

1. Unless otherwise provided, no fence shall be built on any lot or tract outside the surveyed lot lines, or adjacent to any municipal property, excluding public streets.
2. Unless otherwise provided, any fence built on residential property within required front or street side yards shall contain openings constituting no less than 50 percent of the surface area of the fence. Fences constructed of PVC resin are exempt from this requirement.
3. No solid fence permitted or required by this regulation shall be built within a triangle formed by the adjacent side lines of two intersecting streets and a line connecting points 40 feet on each leg from their point of intersection; or otherwise in any manner create a traffic hazard or obstruction to visibility.
4. The finished surfaces of any fence shall face toward adjacent properties and street frontage.
5. Fences constructed within residential districts or on land used for residential purposes are subject to the following provisions.
  - a. The maximum height of a fence within a required front yard or street side yard setback shall be 42 inches not exceeding 50 percent closed construction, or 48 inches not exceeding 25 percent closed construction.
  - b. The maximum height for any fence outside of a required front yard shall be six feet six inches unless otherwise approved by the Board of Zoning Appeals.



- c. On corner lots, a fence built parallel to the street side yard line but set back in conformance with the required street yard setback may have a maximum height of six feet six inches.
  - d. Fences shall be constructed of wood, chain-link, PVC/ resin, stone or masonry materials only. Wood fences shall utilize standard pre-treated building lumber only or be finished.
  - 6. Where it is demonstrated that for security purposes the perimeter fencing around a plant or building located in an area zoned as an Industrial District must be higher than six feet in height may be approved by a Conditional Use Permit.
  - 7. Fences constructed along and parallel to a lot lines separating a residential lot from property located in a Commercial or Industrial District shall not exceed eight feet in height.
  - 8. Fences constructed along and parallel to rear and side lot lines adjoining arterial streets, as designated by the Kansas Department of Transportation, shall not exceed eight feet in height.
- 9.07.02 No fence or vegetation shall be situated or constructed in such a way as to obstruct the vehicular traffic or otherwise create a traffic safety hazard.
- 9.07.03 The use of barbed wire in the construction of any fence is prohibited within the corporate limits except:
- 1. Perimeter security fencing of buildings constructed in an Industrial District. The plans and specifications for any such fencing must be approved by the City before commencement of construction.
- 9.07.04 All fences shall be maintained in good repair.
- 9.07.05 *Electric Fences.* No electric fence, except for underground invisible fence for animal control, shall be constructed or maintained within the City of Victoria. An owner or lessee of such property may, upon application to the City and approval by the Zoning Administrator, maintain electrified fencing provided it shall not be energized to the extent capable of causing bodily harm to persons, or to animals. Before the Zoning Administrator shall approve any electrified fencing, it shall be determined that non-electrified fencing will not adequately protect the owner's property and the owner's application for approval of electrified fencing shall set forth in detail the reasons why non-electrified fencing will not adequately protect his property.

### **Section 9.08 Performance Standards for Industrial Uses**

- 9.08.01 Physical Appearance:** All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.
- 9.08.02 Fire hazard:** No operation shall involve the use of highly flammable gasses, acid, liquids, grinding processes, or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gasses when handled in accordance with other regulations of the City of Victoria.
- 9.08.03 Vibration Standards:** No activity or operation shall cause or create vibrations in excess of the displacement values given below. Measurements shall be made at or slightly beyond the adjacent lot line, or the nearest adjacent resident boundary line as described below. Vibration displacement shall be measured with an instrument capable of simultaneously measuring in three mutually perpendicular directions.

The maximum permitted displacement shall be determined by the following formula:

Where:  $D = k/f$

"D" = Displacement in inches



"k" = A constant value to be determined by reference to Table 9.08.01

below

"f" = The frequency of the vibration transmitted through the ground in cycles/second

**Table 9.08.01 Constant "k" by Type of vibration**

District	Place of Measurement	Continuous	Impulsive	8 pulses per 24 hr. period
1-1	On or beyond any adjacent property lines	.003	.006	.015

**9.08.04 Noise:**

1. No industrial operation or activity shall cause or create noise in excess of the sound levels given in Table 9.08.02.
2. An octave band analyzer and an impact noise analyzer shall be utilized to measure the intensity and frequency of sound.
3. The following noises and activities shall be exempt from the noise level regulations.
  - A. Construction and maintenance activities.
  - B. Emergency vehicles.
  - C. Transient noises from moving sources such as motor vehicles and trains.
  - D. Noises not directly under the control of the property owner.

**Table 9.08.02 Noise Standards in Industrial Districts**

Center Frequency in Cycles/second	District 1-1 measured in decibels on or beyond adjacent boundaries
31.5	65
63	67
125	66
250	59
500	52
1,000	46
2,000	37

**9.08.04 Sewage and Liquid Wastes:** No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, liquid waste of any radioactive or poisonous nature or chemical waste which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.

**9.08.05 Air Contaminants:**

1. Air Contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four-minute period in each one-half hour. Light colored contaminants of such a capacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted.
2. All particulate matter standards are regulated by the Kansas Department of Health and Environment and shall apply to all industrial districts in Victoria.
3. Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public in general: or to endanger the comfort, repose, health, or safety of any such considerable number of persons or to the public in general, or to cause, or have a natural tendency to cause injury or damage to business, vegetation, or property.
4. **Odor:** The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons, shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this Regulations.



5. **Gasses:** The gasses sulphur dioxide and hydrogen sulphide shall not exceed five parts per million (5ppm), carbon monoxide shall not exceed five parts per million (5ppm). All measurements shall be at the zoning lot line.
6. **Glare:** In the 1-1 industrial district, any operation producing intense glare shall be performed in enclosed buildings in such a manner so as to not create a public nuisance or hazard along lot lines. All lights, other than streetlights, shall be so situated and installed so as to reflect away from adjacent streets and residential property.
7. **Toxic Hazards:** All toxic hazards and hazardous materials are regulated by the State Board of Health of the Kansas Department of Health and Environment and shall apply to all industrial districts in Victoria.

#### **9.08.06 Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts**

Table 9.08.02 displays the maximum permitted sound levels that may be generated by uses in the 1-1 zoning district where adjacent to residential zoning districts. All measurements shall be taken at or within the boundary between the originating district and the adjacent residential zoning district with a sound level meter meeting ANSI specification for a Type II or better general purpose sound level meter. The A-weighted response shall be used.

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### **Section 9.09 Small Wind Energy Systems**

#### **9.09.01 Purpose**

It is the purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.

#### **9.09.02 Definitions**

The following are defined for the specific use of this section.

**Small Wind Energy System** shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

**Tower Height** shall mean the height above grade of the first fixed portion of the tower, excluding the wind turbine itself.

#### **9.09.03 Requirements**

Small wind energy systems shall be permitted as an Accessory Use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met:

1. Tower Height
  - a. For property sizes between  $\frac{1}{2}$  acre and one acre the tower height shall be limited to 80 feet.
  - b. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.
2. Setbacks
  - a. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site.
3. Noise
  - a. Small wind energy systems shall not exceed 60 dBA, as measured at the closest neighboring inhabited dwelling unit.
  - b. The noise level may be exceeded during short term events such as utility outages and/or severe windstorms.
4. Approved Wind Turbines
  - a. Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.
5. Compliance with Building and Zoning Codes
  - a. Applications for small wind energy systems shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.
  - b. An engineering analysis of the tower showing compliance with official building code of the governing body and/or the State of Kansas and certified by a licensed professional engineer shall also be submitted.



- c. The manufacturer frequently supplies this analysis.
- d. Wet stamps shall not be required.
- 6. Compliance with FAA Regulations
  - a. Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
- 7. Compliance with National Electrical Code
  - a. Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
  - b. The manufacturer frequently supplies this analysis.
- 8. Utility Notification
  - a. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
  - b. Off-grid systems shall be exempt from this requirement.
- 9. Setbacks
 

All towers shall adhere to the setbacks established in the following table:

Wind Turbine – Non Commercial WECS	
Property Lines	One times the total height
Neighboring Dwelling Units	One times the total height
Road Rights-of-Way*	One times the tower height.
Other Rights-of-Way	One times the tower height.
Wildlife Management Areas and State Recreational Areas	NA
Wetlands, USFW Types III, IV, and V	NA
Other structures adjacent to the applicant's sites	NA
Other existing WECS not owned by the applicant.	NA
River Bluffs	

\* The setback shall be measured from any future Rights-of-Way if a planned change or expanded right-of-Way is known.

### Section 9.10 Solar Energy Use

No solar panel, neighborhood solar or solar farm shall be installed or constructed within the zoning jurisdiction of the City of Victoria unless a Conditional Use Permit, if applicable, and a Building Permit have been issued. All solar units shall be constructed in conformance with all state and national building and fire codes. For those devices that include electrical, plumbing and/or heating constructions, the applicable permits shall also be obtained. Solar panels shall meet the requirements found in this section.

#### General Solar Definitions

**ACCESSORY SOLAR ENERGY SYSTEMS:** include any photovoltaic, concentrated solar thermal, or solar hot water devices that are accessory to, and incorporated into the development of an authorized use of the property, and which are designed for the purpose of reducing or meeting on-site energy needs.

**CONCENTRATED SOLAR POWER:** A solar conversion system (SCS) that generates power by using mirrors or lenses to concentrate a large area of sunlight, or solar thermal energy, unto a small area. These include but are not limited to the following technologies: Parabolic trough, Solar power tower, enclosed trough, Fresnel reflectors and Dish Stirling.

**DEVELOPMENT:** Any plat, subdivision, or planned unit development created under the City of Victoria subdivision and zoning regulations.

**ELECTRIC UTILITY:** The public electric utility providing retail service to a given area.

**NET EXCESS GENERATION:** On an ISCS, net excess generation means the net amount of energy, if any, by which the output of a qualified facility exceeds a customer-generator's total electricity requirements during a billing period;

**NET METERING:** Net metering means a system of metering electricity in which a local distribution utility:  
(a) Credits a customer-generator at the applicable retail rate for each kilowatt-hour produced by a



qualified facility during a billing period up to the total of the customer-generator's electricity requirements during that billing period. A customer-generator may be charged a minimum monthly fee that is the same as other noncustomer-generators in the same rate class but shall not be charged any additional standby, capacity, demand, interconnection, or other fee or charge; and

- (b) Compensates the customer-generator for Net Excess Generation during the billing period at a rate equal to the electric utility avoided cost of electric supply over the billing period. The monetary credits shall be applied to the bills of the customer-generator for the preceding billing period and shall offset the cost of energy owed by the customer-generator. If the energy portion of the customer-generator's bill is less than zero in any month, monetary credits shall be carried over to future bills of the customer-generator until the balance is zero. At the end of each annualized period, any excess monetary credits shall be paid out to coincide with the final bill of that period;

**SOLAR ACCESS:** the ability to receive sunlight across real property for any solar energy device.

**SOLAR ACCESS EASEMENT:** A right, expressed as an easement, covenant, condition, restriction or other property interest in any deed, will or other instrument executed by or on behalf of any landowner or in any order of taking, appropriate to protect the solar skyspace of a solar collector at a particularly described location to forbid or limit any or all of the following where detrimental to access to solar energy: structures on or above ground; vegetation on or above ground; or other activities. Such right shall specifically describe a solar skyspace in three-dimensional terms in which the activity, structures or vegetation are forbidden or limited or in which such an easement shall set performance criteria for adequate collections of solar energy at a particular location.

**SOLAR CONVERSION SYSTEM (SCS):** An assembly, structure, or design, including passive elements, used for gathering, concentrating or absorbing direct or indirect solar energy, specifically designed for holding a substantial amount of useful thermal energy and to transfer that energy to a gas, solid or liquid or to use that energy directly; this may include, but is not limited to, a mechanism or process used for gathering solar energy through thermal gradients, or a component used to transfer thermal energy to a gas, solid or liquid or to convert into electricity.

**SOLAR CONVERSION SYSTEM, COMMERCIAL:** A commercial solar conversion system (CSCS) is a series of solar panels and equipment connected together in order to commercially supply the converted energy to a community and/or power grid. A CSCS shall have a one-way connection to the power grid.

**SOLAR CONVERSION SYSTEM, GROUND-MOUNTED:** Any SCS which is directly supported and attached to the ground.



Example of a Solar Conversion System, Ground-mounted



Example of a Solar Conversion System, Structure-mounted

**SOLAR CONVERSION SYSTEM, INDIVIDUAL:** An individual solar conversion system (ISCS) shall be for the specific use of an individual residential, commercial, public or industrial use.

**SOLAR CONVERSION SYSTEM, NEIGHBORHOOD:** A neighborhood solar conversion system (NSCS) is a series of solar panels and equipment connected together in order to supply converted energy to a specific neighborhood and its uses.

**SOLAR CONVERSION SYSTEM, STRUCTURE-MOUNTED:** Any SCS which is directly connected to and supported by a building.

**SOLAR SKYSPACE:** The maximum three-dimensional space extending from a solar collector to all positions of the sun necessary for efficient use of the collector.

- (A) Where a solar energy system is used for heating purposes only, solar skyspace shall mean the maximum three-dimensional space extending from a solar energy collector to all positions of the sun



between nine o'clock (9:00) A.M. and three o'clock (3:00) P.M. local apparent time from September 22 through March 22 of each year.

- (B) Where a solar energy system is used for cooling purposes only, solar skyspace shall mean the maximum three-dimensional space extending from a solar collector to all positions of the sun between eight o'clock **(8:00) A.M. and four o'clock (4:00) P.M. local** apparent time from March 23 through September 21 of each year.

**SOLAR ORIENTED SUBDIVISION:** A subdivision in which a minimum of 65 percent of the lots are solar-oriented lots.

**SOUTH OR SOUTH-FACING:** True south, or 20 degrees east of magnetic south.

#### **9.10.01 General Provisions Applying to ISCS, NSCS, and/or CSCS**

The following provisions shall apply, typically, to two or more of the different solar conversion systems in this Section

1. For commercial and neighborhood SCS: Applicant shall provide evidence that the project meets commonly accepted management practices for avian, wildlife, and environmental protections in place at the time of application.
2. For commercial and neighborhood SCS: Applicant shall comply with specific requirements of the Victoria Fire Department or the appropriate Rural Fire District.
3. Maintenance: All system and components shall be kept in operational condition, including appearance of all components; plus, the ground beneath the SCS shall be kept in a presentable manner based upon the ground cover decided.
4. Decommissioning: All systems when they are no longer generating power and will no longer be used shall follow a decommissioning plan that has been agreed to upfront by the City of Victoria, the electric utility, and the owner/developer.
5. Repowering: If any SCS is no longer operating for purposes of Repowering, replacement, or maintenance, Decommissioning provisions will not apply for up to six months. However, an SCS that is not operating or is operating at a substantially reduced capacity for more than six months will be considered abandoned and Decommissioning provisions will apply.
6. Repowering does not require a new Conditional Use permit or permit amendment if the footprint of the SCS is the same or reduced. Any increase in the footprint of the facility will require a permit amendment.
7. Any applicant for a SCS project shall meet with and shall indicate they have met the requirements of the electric utility and have in place an interconnection agreement with the electric utility.
8. All NSCS and CSCS operations shall have located at key access points signage stating specific language as outlined by the electric utility.
9. SCS may be installed in the floodway fringe subject to Chapter XVI, Article 3 of the Victoria City Code, as may be amended from time to time, given that all components are installed a minimum of one foot above base flood elevation and subject to written authorization of the Floodplain Administrator.
10. No SCS shall be constructed in the identified Floodway.
11. Concentrated Solar Power (CSP) systems are prohibited within the City of Victoria and the Extraterritorial Jurisdiction (ETJ) boundary.
12. Financial assurances shall be in place as part of the Decommissioning Plan.

#### **9.10.02 Individual Solar Conversion Systems**

##### **1. General Requirements for ISCS**

ISCS's shall conform to the required front, side and rear lot setback requirements except as provided herein:

- A. An SCS which is attached to an integral part of the principal building shall meet all local, state, and federal codes for building, electrical, plumbing, and accessibility.
- B. A ground-mounted SCS may be located only in the required rear yard provided it does not exceed 12-feet in height and is located not less than five feet from the rear lot line and not closer than one foot to any existing easement as measured from the closest point of the structure including its foundation and anchorage.



- C. No ground-mounted SCS shall be located in the required side yard or front yard.
- D. All ISCS's shall have an agreed to solar access easement, on the south side of the yard, from any neighboring properties. Said easement shall be filed as an instrument to each property's deed and said easement shall stay in place as long as the ground mounted SCS is in place and operational.
- E. The applicant for any ISCS shall provide evidence that they have a working Net Metering agreement with the electric utility.

**2. Structural Requirements:**

The physical structure and connections to existing structures shall conform to the applicable local, state, and federal codes.

**3. Plot Plan:**

The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed solar panel.

**4. Preexisting Solar Panels:**

Notwithstanding noncompliance with the requirements of this section, a solar panel erected prior to the adoption of these Regulations, pursuant to a valid building permit issued by the City of Victoria, may continue to be utilized so long as it is maintained in operational condition.

**5. Decommissioning**

Whenever an SCS ceases operation on a property, it shall be required to report this to the City of Victoria Development Services Office and the electric utility.

Whenever, a ground mounted SCS is no longer operating, the property owner shall have six months to completely remove the structure and wiring. The location of the SCS shall be returned to a usable state based upon the surrounding property.

**9.10.03 Neighborhood Solar Conversion Systems**

**1. General Requirements for NSCS:**

NSCS's shall meet the following requirements as provided herein:

- A. An NSCS shall be set on its own lot within the neighborhood/development.
- B. The NSCS shall be designed and constructed for no more than the anticipated maximum solar usage in the designated neighborhood or development.
- C. No excess power generated shall be sold or given to a user outside the agreed upon neighborhood or development, except via a Net Metering agreement.
- D. The developer shall provide the City of Victoria with all solar easements established; however, the City of Victoria shall not be responsible for enforcing said easements.
- E. All solar easements shall be enforced by an establish Homeowners Association for the development/neighborhood.
- F. A ground mounted NSCS shall be protected with fencing and/or bollards.
- G. All connections to the uses within the neighborhood shall be made underground.
- H. An access agreement between the developer, Homeowners Association, and any other necessary other entity and the electric utility shall exist in case of an emergency.
- I. A Net Metering agreement between the developer, Homeowners Association, and any other entity and the electric utility shall exist in case of excess electricity; and
- J. All ground mounted NSCS's shall have an agreed to solar access easement from any neighboring properties. Said easement shall be filed as an instrument to each property's deed and said easement shall stay in place as long as the ground- mounted NSCS is in place and operational.

**2. Structural Requirements:**

The physical structure and connections to existing structures shall conform to the applicable local, state, and federal codes.



**3. Solar Oriented Subdivision/Plot Plan:**

- A. Whenever a NSCS is part of a proposed new subdivision, the developer shall outline the specific lot or outlot where the NSCS will be placed.
- B. Specific developments/neighborhoods initially designed with an NSCS shall identify all solar easements on the preliminary and final plats and shall be recorded the same as other utility easements. In addition, the subdivision plats shall indicate, in addition to all other requirements in the subdivision regulations, the location of all proposed underground conduits serving the other lots in said subdivision.
- C. The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed solar panel.
- D. The developer shall install all underground wiring as prescribed by the electric utility.
- E. All underground wiring shall be protected by a utility easement or located within prescribed rights-of-way.
- F. The developer shall provide the City of Victoria with As-builts of the wiring locations within the subdivision.

**4. Decommissioning**

- A. A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. The City of Victoria may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

**9.10.05 Commercial Solar Conversion Systems:****A. Applicability**

The purpose of this subsection is to provide standards for fixed-panel photovoltaic solar farms or CSCS consisting of ground-mounted solar panels capturing energy from the sun and converting it to electricity. The provisions of this section are based on a ground-mounted photovoltaic facility using a rammed post construction technique and panels supporting the flow of rainwater between each module and the growth of vegetation beneath the arrays and limiting the impacts of stormwater runoff. The rammed post construction technique allows for minimal disturbance to the existing ground and grading of the site. Based on the assumed solar farm design, the City of Victoria finds the use to be low intensity with minimal trip generation, low amounts of impervious cover, and low emission thus the use is compatible in urbanized, non-urbanized, or low-density areas with other uses.

**B. Site Development Standards:**

- (i) Lot coverage: No more than one percent of the gross site area shall be occupied by enclosed buildings and structures.
- (ii) Setbacks: A thirty-foot side and rear setback shall apply only to the setback area measured from a lot line that abuts a residential use or residential zoning district. The side or rear setback shall be eliminated where the use does not abut a residential use or residential zoning district, or the two districts are separated by a public right-of-way.
- (iii) Height: The average height of the solar panel arrays shall not exceed 12 feet.
- (iv) Landscaping Buffer: The primary use of the property shall determine the buffer requirement. Where a ground-mounted photovoltaic solar farm is the primary use the property shall be considered industrial or agricultural for the purposes of buffer requirements, there are no requirements for screening from public streets.
- (v) Stormwater Management: Fixed panel solar arrays shall be considered pervious and the property shall be designed to absorb or detain specific runoff. The impervious cover calculation shall include the support posts of the panels, any roads or impervious driveway surfaces, parking areas and buildings on the site.
- (vi) A property developed pursuant to this subsection shall be required to plat however



water and sewer connections shall not be required. Suitable fire department access shall be required.

- (vii) Signage shall conform to the City of Victoria Sign Code.
- (viii) Customer owned on-site power lines shall be buried except where connecting to existing overhead utility lines. This requirement shall not apply to fiber optic connections.
- (ix) Fencing: Due the unique security requirements of this land use, and to facilitate the educational value of seeing this land use, fencing up to eight (8) feet in height is permitted provided the fencing material is predominantly open.
- (x) All State and Federal codes and provisions not specified in this subsection are required including but not limited to tree preservation, traffic impact analysis and historic preservation.

#### **C. Districts**

See Section 5.06 of the City of Victoria Zoning Ordinance

#### **D. Submittal Requirements:**

All Plans shall contain the following:

- (i) These requirements shall apply to both the Conditional Use Permit and Building Permit.
- (ii) A plot plan, drawn to scale, of the property indicating the total site acreage, landscape and buffer areas, tree preservation, location of all structures, the proposed location of the solar panels, the distances of the solar panels to structures on the property as well as distances to the property lines;
- (iii) The plot plan shall include any roads, electric lines and/ or overhead utility lines;
- (iv) A description of the electrical generating capacity and means of interconnecting with the electrical grid as coordinated and pre-approved with the appurtenant Power District;
- (v) A copy of the interconnection agreement with the local electric utility
- (vi) Drawings or blueprints of solar panels and arrays in conjunction with the application for a building permit for a solar farm/solar powerplant;
- (vii) Structural engineering analysis for a solar panel, array and its foundation, as applicable.
- (viii) Manufacturer's recommended installations, if any; and
- (ix) Documentation of land ownership and/or legal authority to construct on the property.
- (x) A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. The City of Victoria reserves the right to require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

#### **E. Compliance with Other Regulations:**

- (i) Zoning permit applications for CSCS's shall be accompanied by a line drawing of electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the State's adopted electrical code and that has been pre- approved by the associated power district meeting their Distribution Generation Requirements and Guidelines; and
- (ii) This subsection does not waive any requirements of any state or Federal codes, electrical codes or other technical codes as applicable.

#### **F. Discontinuation.**

A CSCS shall be considered abandoned after one year without energy production. The solar equipment owner shall remove all SCS equipment and appurtenances within 90 days of abandonment.



**Section 9.11 Self-Storage Units (Mini-Warehouses)**

1. Minimum lot size of the Self-Storage facility shall be 5,000 square feet.
2. Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
3. All driveways, parking, loading and vehicle circulation areas shall be surfaced with concrete, asphalt, asphaltic concrete, crushed rock or other approved rock other than gravel. All driveways within the facility shall provide a hard surface with a minimum width of 25 feet.
4. All storage must be within enclosed buildings and shall not include the storage of hazardous materials.
5. No storage may open into the front yards.
6. The total area covered by buildings shall not exceed 50 percent of the site.
7. The storage of hazardous, toxic, or explosive substances, including, but not limited to, hazardous waste, industrial solid waste, medical waste, municipal solid waste, septage, or used oil is not allowed.
8. Facilities must maintain landscape buffer yards of 50 feet adjacent to any public Right-of-Way and 20 feet adjacent to other property lines, unless greater setbacks are required, a total of 35 percent of all yards shall be landscaped.
9. Site development shall include provisions for stormwater management in accordance with the Regulations of the City of Victoria
10. Height limitations shall require a maximum height of 20 feet for any structure in the facility.

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**Section 9.12 Auto Repair, Equipment Repair, and Body Repair**

1. Where permitted in commercial districts, all repair activities must take place within a completely enclosed building. Outdoor storage is permitted only where incidental to Auto Repair and Body Repair, provided that such storage is completely screened so as not to be visible from residential areas or public rights-of-ways.
2. Any spray painting must take place within structures designed for that purpose and approved by the Zoning Administrator.

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**Section 9.13 Automobile and Equipment Rental and Sales**

1. All outdoor display areas for rental and sales facilities shall be hard surfaced.
2. Body repair services are permitted as an accessory use to automobile rental and sales facilities, provided that such repair services shall not exceed 25% of the gross floor area of the building.

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**Section 9.14 Bed and Breakfasts**

Bed and Breakfasts shall meet the following requirements:

1. Maintain a residential exterior appearance
2. Rooms may not be rented for more than seven consecutive days and no more than 14 days per person in any 30-day period.
3. Breakfast must be served on premises and included within the room charge for guest of the facility and shall be the only meal provided.

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**Section 9.15 Outdoor Storage Containers**

Outdoor Storage Containers are subject to the regulations outlined for Accessory Buildings in Section 4.09, except as provided below:

1. Outdoor storage containers within each district shall be limited to two containers per business.
2. Containers shall be located to the rear 50 percent of the site.
  - A. Containers shall not be located in any required setback or yard area, required landscape area, required drive aisle, driveway, or parking area.
  - B. Containers shall not encroach upon spaces necessary to satisfy the minimum parking requirement, nor shall they block, impede, or divert traffic in or access to emergency, snow removal, and circulation and fire lanes.
  - C. Containers shall not be stacked upon one another and shall be located an appropriate distance from all structures, in accordance with the Fire Code.
3. Storage containers should not be visible from an adjoining property or from a public or private street. Storage containers not so located may be placed on a site if the containers are adequately screened and buffered.



- A. Screening shall be provided so that the outdoor storage container is not visible or is buffered from surrounding properties or public or private streets or the container shall be architecturally compatible with the primary buildings and the nature of the business.
- B. Enhanced fencing, landscaping, buffering and/or architectural treatments shall be required for visible containers.
- C. Buffering may include the use of decorative design features including painting, murals, etc.
4. The exterior of the storage containers shall be kept free of rust, holes, dents, or other corrosion and shall be painted or otherwise maintained such that they are consistent with the character of adjacent buildings and secured at all times.
5. Conditional use permits for storage containers shall be allowed for one year.
  - A. Renewals are subject to Board of Zoning Appeals approval.
  - B. Storage containers must be removed no later than five working days after the expiration of the permit.
6. Exemptions The temporary use of construction trailers or containers at a building site is exempt from this requirement.

### **Section 9.16 Mobile Food Units**

Mobile Food Units are allowed in specific zoning districts; however, these uses shall be required to abide by the following requirements:

1. All units shall be located on vacant lots except in the C-1 Downtown Commercial District where on-street parking may be permitted. On-street parking shall only be allowed during times of operation.
2. All units shall only operate during hours identified on the temporary permit. In no case shall a unit be open for more than one hour after the legal closing time of local bars.
3. All refuse shall be transported off-site unless an agreement with the property owner is submitted to the City identifying an alternate plan.
4. All units shall not be allowed to use intense lights in order to attract customers.
5. During non-operation hours, these units shall be stored on a vacant lot or in an enclosed structure.

### **Section 9.17 Roadside Stands not including sanctioned Farmer's Markets**

1. A roadside stand is a facility used on a temporary or seasonal basis for the retail sale of produce grown largely on adjacent or surrounding agricultural lands.
2. A roadside stand may be located within a required front yard but no closer than 20 feet to the edge of a traveled roadway.
3. A roadside stand may operate for a maximum of 180 days in any one year.

### **Section 9.18 Parking or Storage of Pleasure Vehicles, Recreational Vehicles, Travel Trailers, Campers, Boats, Boat Trailers**

1. Any recreational vehicle or pleasure vehicle, as defined in this Ordinance, may be parked, stored or maintained anywhere on a lot except that when parked, stored, or maintained in any Residential District, they shall be:
  - A. parked, stored, or maintained on a driveway when so parked in the front or exterior side yard areas; provided no more than two such vehicles shall be parked, stored, or maintained in the required front and side yard areas;
  - B. no pleasure vehicles or recreational vehicles parked or stored in the front or side yard areas shall be parked or stored within 10 feet of any public right-of-way, sidewalk or other area of the street at the entrance of the driveway; however, the ten (10) feet limitation shall not apply to alleys.
  - C. Provided further, no pleasure vehicle shall be parked or stored on any corner lot within the vision clearance area as defined in Section 4.05
2. No pleasure vehicle or recreational vehicle as defined shall be parked, stored or maintained within 10 feet of any residential structure on adjoining property except when such vehicle is stored inside of a garage or other storage structure or upon obtaining the written consent of the adjoining property owner.
3. No pleasure or recreational vehicle as defined may be parked, stored or maintained on any public street, thoroughfare, right-of-way or other public area; provided:
  - A. Said vehicles may be parked in exception to this Section for a temporary period not to exceed 24 hours for loading and unloading purposed; or



- B. For temporary storage or parking not to exceed 14 days if such vehicle is owned by a bona fide guest of the occupants of the premises, provided:
    - 1) When stored, parked or maintained on any public street, thoroughfare, right-of-way or other public area no person shall sleep, live or otherwise inhabit any recreational or pleasure vehicle.
  - C. Any person or persons may live or sleep in a recreational or pleasure vehicle for a period not to exceed 14 days when said vehicle is parked or stored on a lot and said persons are bona fide guests of the occupants of the premises.
  - D. No non-motorized travel trailers or boat, when on a trailer, shall be left unattached when parked or stored on any public street.
4. The Board of Zoning Appeals may permit an exception on appeal, to the foregoing requirements if it should find that in the particular case appealed the location of existing structures, the exceptional shape and size of the property, or other exceptional situation or condition not generally applicable to other properties justifies such action.

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**Section 9.19 Swimming Pools**

Swimming pools of permanent construction which are not enclosed within a building shall be set back at least 10 feet from all property lines and shall be completely surrounded by a fence or wall having a height of at least six feet. There shall be no opening larger than 36 square inches except for gates which shall be equipped with self-closing and self-latching devices.

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**Section 9.20 Chemical or Fuel Storage**

- 1. Petroleum (gasoline and diesel fuels) and propane used for cars, trucks, machinery and home uses shall not be stored in underground, on-the-ground or above-ground tanks in any Residential District or in the C-1 Downtown Commercial District unless in conjunction with an already existing auto service station. Residential and Central Business District storage of petroleum is limited to containers manufactured and clearly marked for such storage.
  - 2. No Agricultural, Commercial (except the "C-1" Downtown Commercial District), nor Industrial Districts shall be restricted on petroleum storage by the above requirements except that all such storage facilities shall comply with the Occupational Safety and Health Administration (OSHA) and State of Kansas requirements.
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**Section 9.21 Adult Entertainment Establishments**

**9.21.01 Purpose; Findings and Rationale**

- 1. *Purpose.* It is the purpose of this resolution to regulate adult establishments in order to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of adult establishments within the City. The provisions of this resolution have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this resolution to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this resolution to condone or legitimize the distribution of obscene material.
- 2. *Findings and Rationale.* Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Board of Supervisors, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Sewell v. Georgia*, 435 U.S. 982 (1978); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *City of Dallas v. Stanglin*, 490 U.S. 19 (1989); and *Farkas v. Miller*, 151 F.3d 900 (8th Cir. 1998); *Jakes, Ltd. v. City of Coates*, 284 F.3d 884 (8th Cir. 2002); *BZAPS, Inc. v. City of Mankato*, 268 F.3d 603 (8th Cir. 2001); *SOB, Inc. v. County of Benton*, 317 F.3d 856 (8th Cir. 2003); *Scope Pictures v. City of Kansas City*, 140 F.3d 1201 (8th Cir. 1998); *ILQ Invs. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *City of Lincoln v. ABC Books, Inc.*, 470 N.W.2d 760 (Neb. 1991); *Xiong v. City of Moorhead*, 2009 WL 322217 (D. Minn. Feb. 2, 2009); *Entm't Prods., Inc. v. Shelby County*, 721 F.3d 729 (6th Cir. 2013); *Lund v. City of Fall River*, 714 F.3d 65 (1st Cir. 2013); *Imaginary Images, Inc. v. Evans*, 612 F.3d 736



(4th Cir. 2010); *LLEH, Inc. v. Wichita County*, 289 F.3d 358 (5th Cir. 2002); *Ocello v. Koster*, 354 S.W.3d 187 (Mo. 2011); *84 Video/Newsstand, Inc. v. Sartini*, 2011 WL 3904097 (6th Cir. Sept. 7, 2011); *Plaza Group Properties, LLC v. Spencer County Plan Commission*, 877 N.E.2d 877 (Ind. Ct. App. 2007); *Flanigan's Enters., Inc. v. Fulton County*, 596 F.3d 1265 (11th Cir. 2010); *East Brooks Books, Inc. v. Shelby County*, 588 F.3d 360 (6th Cir. 2009); *Entm't Prods., Inc. v. Shelby County*, 588 F.3d 372 (6th Cir. 2009); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. City of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Peek-a-Boo Lounge v. Manatee County*, 630 F.3d 1346 (11th Cir. 2011); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Heideman v. South Salt Lake City*, 348 F.3d 1182 (10th Cir. 2003); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *Jacksonville Property Rights Ass'n, Inc. v. City of Jacksonville*, 635 F.3d 1266 (11th Cir. 2011); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *Fantasy Ranch, Inc. v. City of Arlington*, 459 F.3d 546 (5th Cir. 2006); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Richland Bookmart, Inc. v. Knox County*, 555 F.3d 512 (6th Cir. 2009); *Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *DCR, Inc. v. Pierce County*, 964 P.2d 380 (Wash. Ct. App. 1998); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); *Fantasyland Video, Inc. v. County of San Diego*, 505 F.3d 996 (9th Cir. 2007); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); *Major Liquors, Inc. v. City of Omaha*, 188 Neb. 628 (1972); *DLH Inc. v. Nebraska Liquor Control Commission*, 266 Neb. 361 (2003); *City of Winslow v. Sheets*, 261 Neb. 203 (2001),

and based upon reports concerning secondary effects occurring in and around adult establishments, including, but not limited to, "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD," *Journal of Urban Health* (2011); "Does the Presence of Sexually Oriented Businesses Relate to Increased Levels of Crime? An Examination Using Spatial Analysis," *Crime & Delinquency* (2012) (Louisville, KY); *Metropolis, Illinois – 2011-12*; *Manatee County, Florida – 2007*; *Hillsborough County, Florida – 2006*; *Clarksville, Indiana – 2009*; *El Paso, Texas – 2008*; *Memphis, Tennessee – 2006*; *New Albany, Indiana – 2009*; *Louisville, Kentucky – 2004*; *Fulton County, GA – 2001*; *Chattanooga, Tennessee – 1999-2003*; *Jackson County, Missouri – 2008*; *Ft. Worth, Texas – 2004*; *Kennedale, Texas – 2005*; *Greensboro, North Carolina – 2003*; *Dallas, Texas – 1997*; *Houston, Texas – 1997, 1983*; *Phoenix, Arizona – 1995-98, 1979*; *Tucson, Arizona – 1990*; *Spokane, Washington – 2001*; *St. Cloud, Minnesota – 1994*; *Austin, Texas – 1986*; *Indianapolis, Indiana – 1984*; *Garden Grove, California – 1991*; *Los Angeles, California – 1977*; *Whittier, California – 1978*; *Oklahoma City, Oklahoma – 1986*; *New York, New York Times Square – 1994*; the Report of the Attorney General's Working Group On The Regulation Of Adult establishments, (June 6, 1989, State of Minnesota); *Dallas, Texas – 2007*; "Rural Hotspots: The Case of Adult Businesses," 19 *Criminal Justice Policy Review* 153 (2008); "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; "Adult establishments: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; Sex Store Statistics and Articles; and Law Enforcement and Private Investigator Affidavits (Adult Cabarets in Forest Park, GA and Sandy Springs, GA), McLeary and Weinstein; Do "Off-Site Adult Businesses Have Secondary Effects? Legal Doctrine, Social Theory and Empirical Evidence, Law and Policy, Vol. 31, No. 2 (April 2009), Adult Business Study: Town and City of Ellicottville, Cattaraugus County, New York (January 1998),

the City Council finds:

- a. Adult establishments, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.



- b. Adult establishments should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other adult establishments, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of adult establishments in one area.
- c. Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. Additionally, the City's interest in regulating adult establishments extends to preventing future secondary effects of either current or future adult establishments that may locate in the City. The City finds that the cases and documentation relied on in this resolution are reasonably believed to be relevant to said secondary effects.

The City Council hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of adult establishments, including the judicial opinions and reports related to such secondary effects.

#### 9.21.02 Definitions

**Adult Arcade** shall mean any place to which the public is permitted or invited in which coin-operated, slug-operated or for any form of consideration, electronically, electrically or mechanically controlled still or motion picture machines, projectors, video or laser disc players or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas. (K.S.A. § 12-740)

**Adult Bookstore Or Adult Video Store** shall mean a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas." A "principal business activity" exists where the commercial establishment meets any one or more of the following criteria:

1. At least 35% of the establishment's displayed merchandise consists of said items, or
2. At least 35% of the retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of said items, or
3. At least 35% of the establishment's revenues derive from the sale or rental, for any form of consideration, of said items, or
4. The establishment maintains at least 35% of its floor area for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in "floor area" maintained for the display, sale, or rental of said items); or
5. The establishment maintains at least 500 square feet of its floor area for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in "floor area" maintained for the display, sale, or rental of said items); or
6. The establishment regularly offers for sale or rental at least 2,000 of said items; or
7. The establishment maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or "specified anatomical areas."

**Adult Cabaret** shall mean a nightclub, bar, juice bar, restaurant, bottle club, lounge, or similar commercial establishment that regularly features live conduct characterized by semi-nudity. No establishment shall avoid classification as an adult cabaret by offering or featuring nudity.



**Adult Establishment** shall mean an "adult bookstore or adult video store," an "adult cabaret," an "adult motion picture theater," or an "adult paraphernalia store."

**Adult Motion Picture Theater** shall mean a commercial establishment to which the public is permitted or invited wherein an image-producing device is regularly maintained to show images to more than five persons at any one time, and where the images so displayed are characterized by their emphasis upon "specified sexual activities" or "specified anatomical areas."

**Adult Paraphernalia Store** shall mean a commercial establishment that regularly offers 100 or more sexual devices for sale. This definition shall not be construed to include any establishment located within an enclosed regional shopping mall. For purposes of this definition, "sexual device" means any three-dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. "Sexual device" shall not be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

**Employee of an Adult Establishment** shall mean any person who performs any service on the premises of an adult establishment, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, lessee, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Enclosed Regional Shopping Mall means a group of retail and other commercial establishments that is planned, developed, and managed as a single property, with on-site parking provided around the perimeter of the shopping center, and that is generally at least forty acres in size and flanked by two or more large anchor stores, such as department stores. The common walkway or mall is enclosed, climate controlled and lighted, usually with an inward orientation of the stores facing the walkway.

**Nudity** means the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

**Operator of Adult Establishment** means any person on the premises of an adult establishment who manages, supervises, or controls the business or a portion thereof. A person may be found to be an operator regardless of whether such person is an owner, part owner, or licensee of the business.

**Semi-Nude or Semi-Nudity** means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

**Specified Anatomical Areas** shall mean less than completely and opaquely covered human genitals, pubic region, buttock, and/or female breast below a point immediately above the top of the areola.

**Specified Sexual Activities** shall mean intercourse, oral copulation, masturbation or sodomy.

#### **9.21.03 Performance Standards**

1. No person shall establish, operate, or cause to be operated an adult establishment in City of Victoria within:
  - a. 500 feet of another adult establishment.
  - b. 500 feet of a business licensed to sell alcohol at the premises; or
  - c. 600 feet of a residential district, residential use, residence, church, educational institution, park, or recreational facility.
  - d. For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of the structure containing the adult establishment to the closest point on a property boundary of another adult



establishment, a business licensed to sell alcohol at the premises, a residential district, a residential use, a residence, a church, an educational institution, park, or a recreational facility.

2. No adult establishment shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.
3. No patron, employee of an adult establishment, or any other person shall knowingly or intentionally, in an adult establishment, appear in a state of nudity or engage in a specified sexual activity.
4. No person shall knowingly or intentionally, in an adult establishment, appear in a semi-nude condition unless the person is an employee of an adult establishment who, while semi-nude, remains at least six feet from all patrons and on a stage at least 18 inches from the floor in a room of at least 600 square feet.
5. No employee of an adult establishment who appears semi-nude in an adult establishment shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of an adult establishment. No customer shall knowingly or intentionally touch such an employee of an adult establishment or the clothing of such an employee of an adult establishment on the premises of an adult establishment.
6. No person shall possess alcoholic beverages on the premises of an adult establishment.
7. No person shall knowingly or recklessly allow a person under the age of 18 years to be or remain on the premises of an adult establishment.
8. No operator of an adult establishment shall knowingly or recklessly allow a room in the adult establishment to be simultaneously occupied by any patron and any employee of an adult establishment who is semi-nude or who appears semi-nude on the premises of the adult establishment, unless an operator of the adult establishment is present in the same room.
9. A person who operates or causes to be operated an adult establishment which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.
  - a. The operator of the adult establishment shall, within one week of opening the adult establishment for business, submit to the Zoning Administrator a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, video cassettes, digital video discs, or other video reproductions. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches.
  - b. It shall be the duty of the operator of the adult establishment, and of any employees of the adult establishment present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
  - c. The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five foot candles as measured at the floor level. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.
  - d. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that no specified sexual activity occurs in or on the licensed premises.
  - e. It shall be the duty of the operator of an adult establishment to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
    - i. That the occupancy of viewing rooms less than 150 square feet is limited to one person.
    - ii. That specified sexual activity on the premises is prohibited.
    - iii. That the making of openings between viewing rooms is prohibited.
    - iv. That violators will be required to leave the premises.
    - v. That violations of these regulations are unlawful.



- f. It shall be the duty of the operator of an adult establishment to enforce the regulations articulated in 9.21.03 (9)(e)(i), though 9.21.03 (9)(e)(v) above.
- g. The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator of the adult establishment's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed 32 square feet of floor area. If the premises have two or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator of an adult establishment to ensure that at least one employee of an adult establishment is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator of an adult establishment, and it shall also be the duty of any employees of an adult establishment present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.
- h. It shall be the duty of the operator of an adult establishment to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.
- i. It shall be unlawful for a person having a duty under subsections 9.21.03 (9)(a) through 9.21.03 (9)(h) above to knowingly or recklessly fail to fulfill that duty.
- j. No patron shall knowingly or recklessly enter or remain in a viewing room less than 150 square feet in area that is occupied by any other patron.
- k. No patron shall knowingly or recklessly be or remain within one foot of any other patron while in a viewing room that is 150 square feet or larger in area.
- l. No person shall knowingly or recklessly make any hole or opening between viewing rooms.
10. It shall be the duty of the operator of an adult establishment to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five foot candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.
11. Unless a culpable mental state is otherwise specified herein, a showing of a reckless mental state shall be sufficient to establish a violation of a provision of this section 9.21.03.

## **Section 9.22 Special Events**

### **9.22.01 Purpose and Intent**

The purpose and intent of this Article is to provide for the temporary use of land for special events in a manner consistent with its normal use and beneficial to the general welfare of the public. Furthermore, it is the intent of this Article to protect nearby property owners, residents and businesses from special events which may be disruptive, obnoxious, unsafe or inappropriate given site conditions, traffic patterns, land use characteristics, and the nature of the proposed use. Finally, it is the intent of this Article to preserve the public health, safety and convenience.

### **9.22.02 Special Event Defined**

The term "special event" shall mean a temporary, short-term use of land or structures, not otherwise included as a permitted or accessory use by this Land Development Code, for one or more of the following types of activities:

1. **Type 1** shall mean fund-raising or non-commercial events for nonprofit religious, educational, or community service organizations; including any on-site signs and structures in conjunction with the event.
2. **Type 2** shall mean temporary banners attached to the wall of a building or placed across street rights-of-way.
3. **Type 3** shall mean promotional activities or devices intended to attract attention to a specific place, business, organization, event or district, such as signs, searchlights or balloons.
4. **Type 4** shall mean commercial activities intended to sell, lease, rent or promote specific merchandise, services or product lines, such as a tent sale, trade show, farmers market, Christmas tree sales, or product demonstration. This type includes special activities such as film productions, outdoor play productions and similar type of events.



5. **Type 5** shall mean public events intended primarily for entertainment or amusement, such as concerts, festivals, carnivals, circuses or parades, or which are temporarily established for commercial reasons such as filming for movies or other such events. In addition, the temporary placement of a portable asphalt plant and attendant materials and equipment during construction work on any public road when such placement is not adjacent to said construction but will be placed within 1 and 1/4 miles of said construction.

The term "special event" shall not include garage sales at an individual residence, transient merchants, or off-site promotional signs.

**9.22.03 Special Events Not Requiring a Permit**

Special events meeting the Type 1 definition are allowed without a Special Event Permit, provided all of the following performance standards are met:

1. The special event is conducted entirely on private property owned or leased by the sponsoring organization as a permanent facility.
2. Any structure use in conjunction with the special event shall meet all applicable yard setbacks, shall be the subject of a valid building permit, and shall be promptly removed upon cessation of the event.
3. The special event shall be restricted to hours of operation between 6:00 a.m. and 10:00 p.m., to a maximum duration of four days, and to a maximum frequency for similar events of two times per calendar year.

**9.22.04 Special Events Subject to an Administrative Permit**

Special events meeting the following standards may be issued a Special Event Permit administratively by the Zoning Administrator. In administering the provisions of this section, the Zoning Administrator shall be guided by applicable City policies as adopted by the Governing Body. Any applicant denied a Special Event Permit shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the Governing Body.

1. Special events meeting the Type 2 definition may be permitted administratively by the Zoning Administrator, providing that all of the following performance standards are met:
  - A. An application is made, and a fee paid in accordance with the Master Fee Schedule.
  - B. No more than one banner will be displayed when attached to the wall of a building.
  - C. The size and design of the banners will be appropriate given the size of the building to which they are attached and the character of the surrounding neighborhood.
  - D. The banner will be displayed for a maximum duration of 15 days per permit.
2. Special events meeting the Type 3 or Type 4 definition, and Type 1 events not meeting the standards of Section 9.22, may be permitted administratively by the Zoning Administrator subject to the prior review and approval of special arrangements for traffic and crowd control by the Chief of Police and Fire Chief. No such administrative permit shall be issued unless all of the following performance standards are met:
  - A. An application is made, and a fee paid in accordance with Master Fee Schedule.
  - B. The special event will not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections and traffic controls.
  - C. The activity shall not cause the overcrowding of parking facilities given anticipated attendance and the possible reduction in the number of available spaces caused by the event itself.
  - D. The special event shall not endanger the public health, safety, or welfare given the nature of the activity, its location on the site, and its relationship to parking and access points.
  - E. The special event shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter or visual pollution.
  - F. Any structure used in conjunction with the special event shall meet all sight distance requirements, shall be the subject of a valid building permit, and shall be promptly removed upon the cessation of the event.
  - G. The special event shall be conducted on private property in a commercial or industrial zoning district, except that nonprofit organizations may conduct events on any property where the property owner has granted the appropriate permission.
  - H. The duration and hours of operation of the special event shall be consistent with the intent of the event and the surrounding land uses, but in no case shall the duration exceed 10 days.



**9.22.05 Special Events Subject to Governing Body Approval**

Any Type 5 special event or special event not meeting the criteria of Section 9.22 may be granted a Special Event Permit by the Governing Body. Such permit may be subject to such conditions and safeguards as the Governing Body may deem necessary to protect the public health, safety and welfare. These conditions may include, but shall not be limited to:

1. Restrictions on the hours of operation, duration of the event, size of the activity, or other operational characteristic.
2. The posting of a performance bond to help ensure that the operation of the event and the subsequent restoration of the site are conducted according to Governing Body expectations.
3. The provision of traffic control or security personnel to increase the public safety and convenience.
4. Obtaining liability and personal injury insurance in such form and amount as the Governing Body may find necessary to protect the safety and general welfare of the community.

**9.22.06 Application and Fee**

1. No Special Event Permit shall be issued until an application has been submitted to the Zoning Administrator and the appropriate fee paid. The application shall be made on forms provided by the Zoning Administrator, and shall be accompanied by the following items as applicable:
  - A. A letter from the applicant describing the proposed event, the hours of operation, the duration of the event, anticipated attendance, and any structures, signs or attention-attracting devices used in conjunction with the event.
  - B. A sketch plan showing the location of the proposed activities, structures and signs in relation to existing buildings, parking areas, streets and property lines.
  - C. A letter from the property owner or manager, if different from the applicant, agreeing to the special event.
2. Each application for a Special Event Permit shall be accompanied by an application fee. The fee shall be as established by the Governing Body by separate ordinance.
3. The Special Event Permit shall be posted on the site for the duration of the event.

**Section 9.23 Dwelling Unit, Special Types**

This section is intended to establish special conditions by which Special types of dwelling units may be established within the jurisdiction of Victoria.

**9.23.01 Tiny Houses**

Tiny houses fall under two separate categories, Site Built and RV/Park Model/Camper.

***Site Built Tiny Houses***

1. Tiny homes shall have at least one habitable room with not less than 120 sf of gross floor area.
2. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens.
3. Habitable rooms shall not be less than seven feet in any horizontal dimension.
4. Ceiling height effect on room area:
  - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor.
  - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room.
5. Ceiling heights shall be a minimum of seven feet in habitable spaces, hallways, bathrooms, and toilet rooms.
6. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower.
7. Tiny homes shall have a kitchen area and sink.
8. The unit shall provide heating and cooling systems as required by local, state and/or federal codes.
9. All electrical shall be in compliance with all local, state and/or federal electrical codes.
10. The unit shall meet all egress requirements found in local, state, and/or federal codes.
11. All foundations shall meet local, state, and/or federal building codes.
12. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.
13. No Site Built Tiny House shall be constructed in any floodplain.

***RV/Park Model/Camper***

1. The unit shall be constructed upon a single chassis;
2. The unit shall have 400 sf or less when measured at the largest horizontal projections;



3. The unit shall be self-propelled or permanently towable by a light duty truck;
4. The unit shall not be considered to be designed for use as a permanent dwelling but as a temporary living quarter;
5. All electrical, including temporary hook-ups, shall be in compliance with all local, state and/or federal electrical codes;
6. All plumbing and other mechanical systems shall not be permanently connected to a supply or discharge source;
7. The wheels and axles shall remain on the unit at all times;
8. Accessory structures shall not be supported by these units;
9. No RV/Park Model/Camper shall be constructed in any floodplain.

**Tiny House Cities/Communities**

Tiny house Cities/communities may be allowed in identified areas and shall be designed using the PDO-Planned Development Overlay process within this Regulation.

**9.23.02 Grain Bin Homes**

Any residential structure meeting the definition of a grain bin home shall meet the following criteria:

1. Grain bin homes shall be structurally anchored to a permanent foundation and said foundation shall meet local, state, and/or federal building codes;
2. Grain bin homes shall have at least one habitable room with not less than 120 sf of gross floor area;
3. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
4. Habitable rooms shall have not less than seven feet in any horizontal dimension;
5. Ceiling height effect on room area:
  - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
  - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;
6. Ceiling heights shall be a minimum of seven feet in habitable spaces, hallways, bathrooms, and toilet rooms;
7. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
8. Grain bin homes shall have a kitchen area and sink;
9. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
10. All electrical shall be in compliance with all local, state and/or federal electrical codes;
11. The unit shall meet all egress requirements found in local, state, and/or federal codes;
12. Any and all extensions off the grain bin home shall be structurally designed regarding all attachments and cantilevers;
13. All modifications needed to convert the grain bin(s) into a dwelling unit shall be required to have all modifications designed and engineered by a licensed architect and/or engineering;
14. All items requiring the structure to be structurally designed/modified shall be sealed by a structural engineer;
15. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.

**9.23.03 Cargo Container Homes**

Any residential structure meeting the definition of a cargo container home shall meet the following criteria:

1. Cargo container homes shall be structurally anchored to a permanent foundation and said foundation shall meet local, state, and/or federal building codes;
2. Multiple containers shall be structurally and permanently attached to each other;
3. Cargo container homes shall have at least one habitable room with not less than 120 sf of gross floor area;
4. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
5. Habitable rooms shall have not less than seven feet in any horizontal dimension;
6. Ceiling height effect on room area:
  - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
  - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;



7. Ceiling heights shall be a minimum of seven feet in habitable spaces, hallways, bathrooms, and toilet rooms;
8. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
9. Cargo container homes shall have a kitchen area and sink;
10. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
11. All electrical shall be in compliance with all local, state and/or federal electrical codes;
12. The unit shall meet all egress requirements found in local, state, and/or federal codes;
13. Any and all extensions off the cargo container home shall be structurally designed regarding all attachments and cantilevers;
14. All modifications needed to convert the cargo container(s) into a dwelling unit shall be required to have all modifications designed and engineered by a licensed architect and/or engineering;
15. All items requiring the structure to be structurally designed/modified shall be sealed by a structural engineer;
16. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.
17. No Cargo Container Homes shall be constructed in any floodplain.

#### **9.23.04 Tree house Homes**

Any residential structure meeting the definition of a tree house home shall meet the following criteria:

1. Tree house homes shall only be permitted as an accessory use to a primary structure;
2. Tree house homes shall have at least one habitable room with not less than 120 sf of gross floor area;
3. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
4. Habitable rooms shall have not less than seven feet in any horizontal dimension;
5. Ceiling height effect on room area:
  - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
  - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;
6. Ceiling heights shall be a minimum of seven feet in habitable spaces, and hallways;
7. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
8. All electrical shall be in compliance with all local, state and/or federal electrical codes;
9. The unit shall meet all egress requirements found in local, state, and/or federal codes;
10. All tree house homes designed as recreational structures and/or sleeping quarters shall be structurally designed prior to construction and sealed by a structural engineer.

#### **9.23.05 Quonset Homes**

Any residential structure meeting the definition of a Quonset home shall meet the following criteria:

1. Quonset homes shall be structurally anchored to a permanent foundation and said foundation shall meet local, state, and/or federal building codes;
2. Quonset homes shall have at least one habitable room with not less than 120 sf of gross floor area;
3. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
4. Habitable rooms shall have not less than seven feet in any horizontal dimension;
5. Ceiling height effect on room area:
  - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
  - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;
6. Ceiling heights shall be a minimum of seven feet in habitable spaces, hallways, bathrooms, and toilet rooms;
7. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
8. Quonset homes shall have a kitchen area and sink;
9. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
10. All electrical shall be in compliance with all local, state and/or federal electrical codes;
11. The unit shall meet all egress requirements found in local, state, and/or federal codes;
12. Any and all extensions off the Quonset home shall be structurally designed regarding all attachments and cantilevers;
13. All modifications needed to convert the Quonset into a dwelling unit shall be required to have all modifications designed and engineered by a licensed architect and/or engineering;



14. All items requiring the structure to be structurally designed/modified shall be sealed by a structural engineer;
15. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.

**9.23.06 Shouses**

Any residential structure meeting the definition of a Shouse shall meet the following criteria:

1. Shouses shall be structurally anchored to a permanent foundation and said foundation shall meet local, state, and/or federal building codes;
2. Once a Shouse has been established, the overall structure, including the shop area will no longer be considered an agricultural structure/building;
3. Shouses homes shall have at least one habitable room with not less than 120 sf of gross floor area;
4. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
5. Habitable rooms shall not be less than seven feet in any horizontal dimension;
6. Ceiling height effect on room area:
  - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
  - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;
7. Ceiling heights shall be a minimum of seven feet in habitable spaces, hallways, bathrooms, and toilet rooms;
8. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
9. Shouses shall have a kitchen area and sink;
10. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
11. All electrical shall be in compliance with all local, state and/or federal electrical codes;
12. The unit shall meet all egress requirements found in local, state, and/or federal codes;
13. Any and all extensions off the Shouse shall be structurally designed regarding all attachments and cantilevers;
14. All modifications needed to convert the machine shed into a dwelling unit shall be required to have all modifications designed and engineered by a licensed architect and/or engineering;
15. All items requiring the structure to be structurally designed/modified shall be sealed by a structural engineer;
16. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.