

**ARTICLE XII- SPECIAL USES**

**SEC. 26-730 Purpose.** The purpose of **this Article** is to provide for regulation of special uses that have unique characteristics and are subject to restrictions not elsewhere provided for in **this Chapter**. These uses are also subject to licensure, operation, and inspection requirements set forth elsewhere in the Crestwood Municipal Code as noted herein.

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**SEC. 26-740 Sexually Oriented Businesses and Massage Businesses.** Sexually oriented businesses and massage businesses are subject to the provisions of Chapter 13, Article II, Division 6 of the Crestwood Municipal Code. Such business are defined in **Chapter 13, Article II, Division 6, Section 13-162** as follows:

- A. Sexually Oriented Business.** An inclusive term used to describe collectively: Adult cabaret; adult motion picture theater; adult media store; and/or sex shop which has as a primary purpose the sale, display or rental of goods that are designed for use in connection with specified sexual activities or that emphasize matters depicting, describing or relating to specified sexual activities or specified anatomical areas or has one of the following as a primary business purpose:
1. The provision of entertainment where the emphasis is on performances, live or otherwise, that depict, portray, exhibit or display specified anatomical areas or specified sexual activities; or
  2. The provision of nonmedical services related to specified sexual activities or specified anatomical areas.
- B. Massage Establishment.** Any establishment having a fixed place of business where any person, firm, association or corporation engages in or carries on or permits to be engaged in or carried on any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or applied with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparation commonly used in this practice.
- C. Where Permitted.** The uses as defined above are permitted in the C-1 and M-1 zoning districts but are subject to the further location restrictions as provided for in **Chapter 13, Article II, Division 6, Section 13-173** and are further subject to the requirements of **Article III, Section 26-100, and Section 26-120, (Applications and Procedures, Conditional Use Permit and Minor Site Plan)** of **this Chapter** to ensure compliance with the requirements of **Chapter 13, Article II, Division 6** of the Crestwood Municipal Code.
- D. Where Not Permitted.** The uses provided for in this Section are not permitted in any Planned Development district as provided for in **Article III, Section 26-090 (Applications and Procedures, Planned Development)** of **this Chapter** created after the date of adoption of **this Chapter**.

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**SEC. 26-750 Medical Marijuana.** The purpose of **this Section** is to regulate the placement and licensing of facilities for the dispensing, selling, cultivating, manufacturing, storing, and testing of marijuana and marijuana-infused products, to the extent permitted by the Missouri Constitution, applicable statutes enacted by the General Assembly, and regulations promulgated by the Missouri Department of Health and Senior Services, and to protect the health, safety, and welfare of the residents, businesses, and property owners in the City of Crestwood.

**A. Definitions.** Terms not expressly defined herein shall have the meaning set forth in Missouri Constitution. Art. XIV, Section 1(2), enacted as Amendment 2 (2018) to the Missouri Constitution and approved by Missouri voters on November 6, 2018, relating to access to medical marijuana, if defined therein. The following definitions shall apply in interpretation and enforcement of this division, unless otherwise specifically stated:

*“Marijuana” or “Marihuana”*

Cannabis indica, Cannabis sativa, and Cannabis ruderalis, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. “Marijuana” or “Marihuana” do not include industrial hemp containing a crop-wide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis, or commodities or products manufactured from industrial hemp.

*Marijuana-Infused Products*

Products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

*Medical Marijuana Cultivation Facility*

A facility licensed by the Missouri Department of Health and Senior Services to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana dispensary facility, medical marijuana testing facility, or to a medical marijuana-infused products manufacturing facility.

*Medical Marijuana Dispensary Facility*

A facility licensed by the Missouri Department of Health and Senior Services to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana to a qualifying patient, a primary caregiver, another medical marijuana dispensary facility, a medical marijuana testing facility, or a medical marijuana-infused products manufacturing facility.

*Medical Marijuana-Infused Products Manufacturing Facility*

A facility licensed by the Missouri Department of Health and Senior Services to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to another medical marijuana-infused products manufacturing facility.

*Medical Marijuana Testing Facility*

A facility certified by the Missouri Department of Health and Senior Services to acquire, test, certify, and transport marijuana.

**B. General Requirements.**

1. No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall be operated within the City of Crestwood without a valid license issued by the Missouri Department of Health and Senior Services. No marijuana or marijuana-infused products shall be acquired, certified, cultivated, delivered, manufactured, processed, sold, stored, tested, or transported within the City of Crestwood, except by persons or entities licensed for such purposes by the Missouri Department of Health and Senior Services. All medical marijuana dispensaries, medical marijuana-infused products manufacturing facilities, medical marijuana cultivation facilities, and medical marijuana testing facilities shall prominently display said license in a highly visible location, easily seen by patients on the dispensary's sales floor.
2. No person shall possess or consume marijuana or marijuana-infused products in the City of Crestwood except qualifying patients. No qualifying patient shall consume marijuana in a public place, except public places where such consumption is expressly permitted by law.
3. A medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall be operated in the manner provided by Section 1 of Article XIV, Mo. Const., regulations promulgated by the Missouri Department of Health and Senior Services, applicable state statutes, and this division.
4. Medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, and medical marijuana testing facilities shall annually obtain a business license from the City as required by Chapter 13 of this Code, and shall annually pay the applicable taxes and fees required by Chapter 13 of this Code.
5. Any person who violates this Section is guilty of an offense and shall be assessed a penalty in accordance with Section 1-6 of this Code. The City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this division. In addition to any other remedies, the city attorney may institute injunction, mandamus or other appropriate action or proceeding to prevent violation of this division. Additionally, the City may notify appropriate officials at the Missouri Department of Health and Senior Services, or other law enforcement agencies, of violations of this division.

**C. District Regulations, Conditional Use Permit Required.**

1. A licensed medical marijuana dispensary facility shall be permitted as a conditional use in properties zoned "C-1" or "PD-C." A licensed medical marijuana cultivation facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall be permitted as a conditional use in properties zoned "M-1" or "PD-M." A medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall not be permitted in any other zoning district within the City.
2. No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall be located within five hundred feet of any then-existing elementary or secondary school, child day-care center, or church.

3. No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall be located within one thousand feet of another medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility.
4. No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall be located on the same premises as a physician's office.
5. All medical marijuana sales, distribution, manufacturing, cultivation and testing facilities are subject to the following restrictions relating to hours of operation.
  - a. All sales or distribution of medical marijuana and any other products sold to the public through a medical marijuana dispensary shall take place between the hours of 8:00 a.m. and 9:00 p.m., Sunday – Saturday. Medical marijuana dispensaries shall be secured and closed to the public after the hours listed in this subsection, and no persons not employed by the medical marijuana dispensary may be present in such a facility at any time it is closed to the public.
  - b. All medical marijuana-infused products manufacturing facilities, medical marijuana cultivation facilities, and medical marijuana testing facilities shall be closed to the public between the hours of 7:00 p.m. and 7:00 a.m. No persons not employed by the business shall be on the premises at any time.
6. All operations and all storage of materials, products, or equipment shall be within a fully secured area inside the building structure. No outdoor storage shall be permitted on the property.
7. The review procedure for an application for a conditional use permit under this division shall be in the manner set forth in Section 26-100 of this Code. The Board of Aldermen may impose such restrictions on the time, place, and manner of operation of such facilities as it deems appropriate for the protection of public health, safety, and welfare, and to ensure compliance with the Missouri Constitution, applicable statutes and regulations, and this division.
8. A separate conditional use permit shall be required for each premises used for a medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or a medical marijuana testing facility. No two medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or a medical marijuana testing facility may be located within the same premises, except that a medical marijuana dispensary facility and a medical marijuana cultivation facility may be located on the same premises if both businesses are owned by the same entity.
9. A conditional use permit for a medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility is not transferable or assignable, including, without limitation, not transferable or assignable to a different premises, to a different type of business, or to a different owner or licensee, without the permission of the Board of Aldermen. A conditional use permit for a medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility is valid

only for the owner(s) named thereon, the type of facility for which a conditional use permit has been granted, and the location for which the permit is issued.

10. An application for a conditional use permit for a medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall be filed with the Department of Public Services, with an application fee in an amount established by the Board of Aldermen. The Department of Public Services may provide forms to applicants for that purpose.

**D. Signs.**

1. A sign for a medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall comply with the requirements of **Article VII (Signs)** of this Chapter, or any ordinance enacted hereafter regulating signs.
2. A sign for a medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall be located on the same premises as the facility.

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## SEC. 26-760 Telecommunications Towers and Facilities

**A. Purposes.** The purposes of these regulations are to regulate the placement and construction of wireless communications facilities and support structures in order to protect the health, safety and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City. Specifically, this section is intended to:

1. Provide for the appropriate location and development of wireless communications infrastructure to serve the citizens and businesses of the City;
2. Minimize adverse visual impacts of wireless facilities and support structures through careful design, siting, landscape screening and innovative camouflaging techniques;
3. Ensure that any new support structure is located in an area compatible with the neighborhood or surrounding community to the extent possible;
4. Encourage the use of disguised support structures so as to ensure the architectural integrity and the scenic qualities of areas within the City;
5. Ensure that regulation of wireless facilities does not have the effect of prohibiting the provision of personal wireless services and does not unreasonably discriminate among providers of functionally equivalent services; and
6. Comply with applicable law including the Federal Telecommunications Act of 1996, 47 U.S.C. § 332 and the Missouri Uniform Wireless Communications Infrastructure Deployment Act, 67.5090, RSMo, et seq.

**B. Definitions.** Any term not expressly defined herein shall have the meaning set forth in sections 67.5090 through 67.5104, RSMo. As used herein, the following terms shall have the meanings and usages indicated:

### *Antenna*

Any device that transmits and/or receives electromagnetic signals for voice, data or video communications purposes including, but not limited to, television, AM/FM radio, microwave, wireless communications services, and similar forms of communications. The term shall exclude satellite earth station antennas less than six feet in diameter (mounted within 12 feet of the ground or building mounted) and any receive-only home television antenna.

### *Cabinet*

A structure for the protection and security of communications equipment associated with one or more antennas where direct access to equipment is provided from the exterior and the horizontal dimensions of which do not exceed four feet by six feet.

### *Collocation*

The placement or installation of a new wireless facility on a structure that already has an existing wireless facility, including electrical transmission towers, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes.

*Director*

The Director of Public Services of the City or his or her designee.

*Disguised Support Structure*

Any freestanding, man-made structure designed for the support of wireless facilities, the presence of which is camouflaged or concealed as an architectural or natural feature. Such structures may include, but are not limited to, clock towers, observation towers, pylon signs, water towers, light standards, flag poles and artificial trees.

*FAA*

The Federal Aviation Commission.

*FCC*

The Federal Communications Commission.

*Height*

The vertical distance measured from the base of the structure at mean ground level to its highest point and including the main structure and all attachments thereto. Mean ground level shall be determined by the average elevation of the natural ground level within a radius of 50 feet from the center location of measurement.

*Replacement*

Includes constructing a new wireless support structure of equal proportions and of equal height or such other height that would not constitute a substantial modification to an existing structure in order to support wireless facilities or to accommodate collocation and includes the associated removal of the preexisting wireless facilities or wireless support structure.

*Shelter*

A building for the protection and security of communications equipment associated with one or more antenna(s) and where access to equipment is gained from the interior of a building.

*Substantial Modification*

The mounting of a proposed wireless facility on a wireless support structure which, as applied to the structure as it was originally constructed:

1. Increases the existing vertical height of the structure by:
  - a. More than 10%; or
  - b. The height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; or
2. Involves adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure more than 20 feet or more than the width of the wireless support structure at the level of the appurtenance, whichever is greater (except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable);
3. Involves the installation of more than the standard number of new outdoor equipment cabinets for the technology involved, not to exceed four new equipment cabinets; or



4. Increases the square footage of the existing equipment compound by more than 1,250 square feet.

*Wireless Communications Service*

Includes the wireless facilities of all services licensed to use radio communications pursuant to Section 301 of the Communications Act of 1934, 47 U.S.C. § 301.

*Wireless Facility*

The set of equipment and network components, exclusive of the underlying wireless support structure, including, but not limited to, antennas, accessory equipment, transmitters, receivers, power supplies, cabling and associated equipment necessary to provide wireless communications services.

*Wireless Support Structure*

A structure, such as a monopole, tower, or building capable of supporting wireless facilities. This definition does not include utility poles.

**C. General Requirements.** The requirements set forth in this section shall be applicable to all wireless facilities, wireless support structures cabinets and shelters installed, built or modified after January 1, 2018, to the full extent permitted by law.

1. *Principal or incidental use.* Wireless facilities and wireless support structures may be either a principal use in all zoning districts or an accessory use to existing multifamily, institutional or nonresidential uses, subject to any applicable zoning district requirement relating to location or setback.
2. *Building codes, safety standards and zoning compliance.* To ensure the structural integrity of wireless facilities and wireless support structures, such facilities and support structures shall be constructed and maintained in compliance with all standards contained in any state or local building code, National Electric Safety Codes, as amended from time to time. In addition to any other approvals required hereunder, no wireless facilities and wireless support structures shall be erected prior to the issuance of a building permit.
3. *Regulatory compliance.* All wireless facilities and wireless support structures shall meet or exceed current standards and regulations of the FAA, FCC and any other governmental agency with the authority to regulate such facilities and support structures. Should such standards or regulations be amended, then the owner shall bring such facilities and support structures into compliance with the revised standards or regulations within six months of the effective date of the revision, unless an earlier date is mandated by the controlling agency.
4. *Security.* All wireless facilities and wireless support structures shall be protected from unauthorized access by appropriate security devices. A description of proposed security measures shall be provided as part of any application to install, build or modify wireless facilities and wireless support structures. Additional measures may be required as a condition of the issuance of a building permit or administrative permit as deemed necessary by the Director or the Board of Aldermen in the case of a conditional use permit.
5. *Lighting.* Wireless facilities and wireless support structures shall not be lighted unless required by the FAA or other governmental agency with authority to regulate. In such case, a description of the required lighting scheme shall be made a part of the application to install, build or modify the wireless facilities or wireless support structures.

6. *Advertising.* Unless a wireless facilities and/or wireless support structure is disguised in the form of an advertising device, such as a pylon sign or similar structure, the placement of advertising on support structures, cabinets or shelters regulated by this division is prohibited.
7. *Design.*
  - a. Wireless facilities and wireless support structures, except disguised support structures shall maintain a galvanized steel finish or, subject to the requirements of the FAA and/or any applicable governmental agency, be painted a neutral color consistent with the natural or built environment of the site.
  - b. Wireless facilities other than antennae shall have an exterior finish compatible with the natural or built environment of the site and shall also comply with such other reasonable design guidelines as may be required by the City.
  - c. Wireless facilities mounted on a building or a disguised support structure shall be of a color identical to or closely compatible with the surface to which they are mounted and should be made to appear as unobtrusive as possible by location as far away as feasible from the edge of a building. Wireless facilities and wireless support structures mounted on the ground shall not exceed 100 feet in height, except as provided in Subsection (F)(3) of this Section. Wireless facilities installed on a building shall not exceed 20 feet from the highest point of the building, other than for licensed amateur radio uses.
  - d. Wireless facilities, wireless support structures and cabinets mounted on the ground shall be surrounded by a landscape strip of not less than 10 feet in width and planted with materials which will provide a visual barrier to a minimum height of six feet at the time of installation. Such landscape strip shall be exterior to any security fencing. In lieu of the required landscape strip, a minimum six-foot-high decorative fence or wall may be approved by the Director of Public Services in the case of an application for a building permit or administrative permit, or by the Board of Aldermen in the case of a conditional use application, upon demonstration by the applicant that an equivalent degree of visual screening is achieved.
  - e. All wireless support structures shall be separated from any single- or two-family residential structure a distance equal to the height of the wireless support structures. Wireless support structures on parcels adjacent to residentially zoned property shall meet the setbacks of the applicable zoning districts required for a principal structure along the adjoining property line(s). Where adjacent to nonresidential zoned property, wireless support structures shall maintain setbacks as are required for accessory structures in such district.
  - f. Ground anchors of all guyed wireless support structures shall be located on the same parcel as the wireless support structures and meet the setbacks of the applicable zoning district.
  - g. Vehicle or outdoor storage on any the site of any wireless facility or wireless support structure is prohibited.
  - h. On-site parking for periodic maintenance and service shall be provided at all locations as deemed necessary by the Director of Public Services or by the Board of Aldermen in the case of a conditional use permit.

8. *Time limits.* All applications regarding wireless facilities and wireless support structures shall be processed in accordance with the time limits established by sections 67.5090 through 67.5103, RSMo.
9. *Fees.* Fees for applications regarding wireless facilities and wireless support structures shall not exceed the limits established by 67.5090 through 67.5103, RSMo.
10. *New wireless support structure/substantial modification.* Prior to the issuance of a building permit, administrative permit, or a conditional use permit, the City shall require an applicant proposing to construct a new wireless support structure, or to make a substantial modification to a wireless support structure, to include a copy of a lease, letter of authorization, or other agreement from the property owner evidencing applicant's right to pursue the application and shall require such applicant to comply with all applicable permitting and land use ordinances of the City. Any decision denying such application shall be provided in writing to the applicant. With regard to an application for a new wireless support structure, the applicant shall provide to the City a statement affirming that it conducted an analysis of available collocation opportunities on existing wireless towers within the same search ring defined by the applicant, solely for the purpose of confirming that an applicant undertook such an analysis.

**D. Permitted Use.** The placement of the following is permitted in all zoning districts by issuance of a building permit by St. Louis County:

1. Collocation and replacement applications, provided that no permit may be issued for collocation to a certified historic structure as defined in 253.545, RSMo, until at least one public hearing has been held by the Director of Public Services within 30 days prior to issuance. The Director of Public Services shall post public notice of such hearing in a prominent location at the City Government Center at least 15 days in advance of such hearing and shall provide written notice to all property owners within the City limits whose property lies within 300 feet of the parcel for which an application has been submitted. Collocation and replacement applications shall be required to comply with all applicable state and local building codes, National Electric Safety Code, recognized industry standards for structural safety, capacity, reliability, and engineering, but shall not be required to comply with other zoning or land use requirements, including design or placement requirements or public hearing review.
2. The mounting of antennas on any building or structure such as a water tower, provided that the presence of the antennas is concealed by architectural elements or camouflaged by painting a color identical to the surface to which they are attached.
3. The installation of antennas or the construction of a wireless facility or wireless support structure on buildings or land owned by the City following the approval of a lease agreement by the Board of Aldermen.
4. The installation of antennas or the construction of a wireless facility or wireless support structure on buildings or land owned by the state or any agency of the federal government.

**E. Administrative Permit Required.** An administrative permit issued by the Director of Public Services is required as set forth below:

1. *Permitted placement.* The placement of the following is permitted in all zoning districts upon issuance of an administrative permit approved by the Director of Public Services:

- a. The construction of a disguised support structure, provided that all related equipment shall be placed underground when the structure is located on property zoned for residential use. Equipment may be placed in a cabinet if the disguised support structure is incidental to a multifamily, institutional, or nonresidential use.
  - b. The installation of wireless facilities or the construction of a wireless support structure on buildings or land owned by a political subdivision of the state.
  - c. The placement of dual solar panel antennas on wooden or steel utility poles, not to exceed 40 feet in height, provided that all related equipment is contained in a cabinet.
  - d. Wireless support structures erected and maintained for a period not to exceed 30 days for the purpose of replacing an existing tower, testing an existing or proposed network, or special events requiring mobile towers.
2. *Application procedures.* Applications for administrative permits shall be made on the appropriate forms to the Director of Public Services, accompanied by payment of the prescribed fee:
- a. A detailed site plan, based on a closed boundary survey of the host parcel, shall be submitted indicating all existing and proposed improvements including buildings, drives, walkway, parking areas and other structures, public rights-of-way, the zoning categories of the subject and adjoining properties, the location of and distance to off-site residential structures, required setbacks, required buffer and landscape areas, hydrologic features, and the coordinates and height above ground level of the existing or proposed wireless facility and/or wireless support structure.
  - b. The application shall be reviewed by the Director of Public Services to determine compliance with the applicable standards and transmit the application for review and comment by other City departments as may be affected by the proposed wireless facilities and/or wireless support structures.
  - c. The Director of Public Services shall issue a decision on the permit within the applicable time limits. The Director of Public Services may consider the purposes of this division and the factors established herein for granting a conditional use permit as well as any other considerations consistent with this division and applicable law. A decision to deny an application shall be made in writing, and state the specific reasons for the denial.
- F. Conditional Use Permit Required.** All proposals to install, build or modify a wireless facility or wireless support structure not covered under **Subsections 26-760(D) or (E)** above, shall require the approval of the Board of Aldermen by conditional use permit following receipt of recommendation by the Planning, Zoning, and Architectural Review Commission and a duly advertised public hearing by the Board of Aldermen.
1. Applications for a conditional use permit shall be filed and processed in the manner and time frame as established under the zoning code and, if applicable, sections 67.5090 through 67.5103, RSMo.
  2. The review procedure for an application for a conditional use permit under this division shall be in the manner set forth in **Article III, Section 26-100 (Applications and Procedures, Conditional Use Permit)** of this Code. A decision by the Board on an application shall be

accompanied by substantial evidence supporting the decision, which shall be made a part of the written record of the meeting at which a final decision on the application is rendered.

3. No wireless support structure shall be approved in excess of 100 feet in height unless the applicant clearly demonstrates that such height is required for the proper function of the applicant's system or that of a public safety communications system of a governmental entity sharing the support structure. Such showing must also be supported by the opinion of a telecommunications consultant hired by the City at the expense of the applicant. The report of the consultant shall include a statement that no available alternatives exist to exceeding the height limitation or the reason why such alternatives are not viable.

**G. Removal of antenna support structures.** Any wireless facility or support structure no longer used for its original communications purpose shall be removed at the owner's expense. The owner and applicable co-users shall provide the City with a copy of any notice to the FCC of intent to cease operations and shall have 90 days from the date of ceasing operations to remove the facility and/or support structure. In the case of co-use, this provision shall not become effective until all users cease operations. Any wireless support structure, or the upper portion of any wireless support structure, which is occupied by an inactive antenna for a period of six months shall be deemed a nuisance and shall be removed by the City at the owner's expense.

**H. Filing of bond or other security prior to permit issuance.** To the extent permitted by law, any applicant for a new wireless facility or wireless support structure not built as a disguised support structure shall file with the City a bond or other security satisfactory to the City prior to the issuance of any permit hereunder to ensure that such structure does not become unsafe or otherwise fail to comply with the requirements of this division, including without limitation, failure to remove such structure as required pursuant to subsection G of this Section, or any other applicable regulations. The bond or security shall be in the form approved by the Director of Public Services, in an amount not less than \$15,000, or such additional amount as is determined by the Director of Public Services to protect the City in the event of noncompliance with the requirements hereof.

**I. Unlawful operation of wireless facilities or support structures.** Notwithstanding any right that may exist for a governmental entity to operate or construct a wireless facility or support structure, it shall be unlawful for any person to erect or operate for any private commercial purpose any new wireless facility or support structure in violation of this division, regardless of whether such facility or support structure is located on land owned by a governmental entity.

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### SEC. 26-770 Group Homes

**A. Definition:** A group home is a single-family dwelling in which eight (8) or fewer unrelated mentally or physically handicapped persons reside and live together functionally as a single housekeeping unit, and may include two (2) additional persons acting as houseparents or guardians who need not be related to each other or to any of the mentally or physically handicapped persons residing in the home.

#### **B. General Requirements**

1. No more than eight (8) unrelated mentally or physically handicapped persons may reside in any individual group homes.
2. Not more than two (2) additional persons acting as houseparents or guardians, who need not be related to each other or to any of the mentally or physically handicapped persons residing in the home, may also reside on the premises. No additional employees, aside from up to two houseparents or guardians residing on the premises, shall be full-time or part-time employees stationed at such premises.
3. The exterior appearance of any group home and property shall be in reasonable conformance with scale, massing, appearance, site design, architecture, other characteristics and general neighborhood standards of the area within which the group home is located, as determined by the reasonable professional administrative judgment of the Director of Public Services. The exterior appearance of any group home and property shall be in reasonable conformance with the City's Property Maintenance Code as Set forth in Sections 7-32 through 7-37 of this Code, and applicable provisions of the technical codes adopted pursuant to Section 7.1 of this Code," Any person aggrieved by a decision of the Director of Public Services under this subsection may appeal that decision to the Board of Adjustment.
4. Each bedroom occupied by one (1) person shall contain at least eighty (80) square feet of floor space.
5. Each bedroom occupied by more than one (1) person shall provide at least sixty (60) square feet of floor space per person, and no more than four (4) persons shall occupy each bedroom.
6. Each home shall provide eighty (80) square feet of interior floor space, excluding bedrooms, kitchens, bathrooms, closets and basements, for each occupant, including staff.
7. Each group home shall provide sufficient off-street parking in conformity with the parking standards set forth in **this Chapter** to accommodate the needs of the houseparents, residents and visitors to the premises. The City Planner shall establish the required number of parking spaces for each group homes based upon:
  - a. The number of houseparents or guardians to reside in the home;
  - b. The reasonable needs and circumstances of the persons intended to reside in the home; and
  - c. The reasonably anticipated frequency and duration of visitors to the home.

Any person aggrieved by a decision by the City Planner as to the number or necessity of parking spaces may appeal that decision to the Board of Adjustment.

**C. District Requirement, Conditional Use Permit Required**

1. No group home shall be located within five hundred feet of any then-existing group home.
2. A separate conditional use permit shall be required for each premises used for group home.
3. A conditional use permit for a group home is not transferable or assignable, including, without limitation, not transferable or assignable to a different premises, to a different type of business, or to a different owner or licensee, without the permission of the Board of Aldermen. A conditional use permit for a group home is valid only for the owner(s) named thereon, the type of facility for which a conditional use permit has been granted, and the location for which the permit is issued.
4. An application for a conditional use permit for a group home shall be filed with the Department of Public Services, with an application fee in an amount established by the Board of Aldermen. The Department of Public Services may provide forms to applicants for that purpose.