

Chapter 12

SPECIFIC USE STANDARDS

- Sec. 12-1: Accessory Home Occupations
- Sec. 12-2: Day Care Facilities
- Sec. 12-3: Large Retail Establishments
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Sec. 12-1. Accessory Home Occupations.

- A. Purpose.
 Accessory home occupations are uses that occur within dwellings and which are accessory and incidental to the principal use of the subject property for residential purposes. It is the intent of this Section to allow accessory home occupations that are compatible with the surrounding neighborhood and land use where the nature of the accessory home occupation use is and remains secondary to the principal use of the subject property as a dwelling. This Section recognizes that many types of accessory home occupations can be conducted within a residential dwelling with little or no adverse effect(s) on the surrounding neighborhood.
- B. Description of Accessory Home Occupation Types.
 For the purposes of this Section there shall be two (2) classifications of accessory home occupations as follows:
 - 1. Type I Accessory Home Occupation. A Type I Accessory Home Occupation is a non-residential use conducted solely by the inhabitants of the dwelling within such dwelling unit, or allowable accessory structure thereto; where there are no on-site employees or customer services provided; and where the conduct of the use does not change the

character or nature of the dwelling or surrounding area. Examples include, but are not limited to, artists, crafts people, writers, graphic artists, computer programmers and software developers, consultants and similar uses. Private instruction (such as music instruction, private tutoring, other and similar uses) involving no more than four (4) students upon the premises at any one time shall be deemed to be a Type I Accessory Home Occupation.

2. Type II Accessory Home Occupation. A Type II Accessory Home Occupation is a non-residential use conducted by the inhabitants of the dwelling with up to one (1) additional on-site employee, and/or with on-site customer service provided upon the subject property, and where the conduct of the use does not change the character or nature of the dwelling or surrounding area.

C. Accessory Home Occupation Use Regulations.

1. Allowed Uses. Type I Accessory Home Occupations shall be an allowed use in all residential Zoning Districts, but shall be subject to the performance standards included herein. Type II Accessory Home Occupations shall be a Conditionally Permitted Use in all residential Zoning Districts and shall also be subject to the performance standards included herein.

2. Prohibited Accessory Home Occupation Uses. The following uses shall not be allowed as either a Type I or Type II Accessory Home Occupation, but may otherwise be permitted under this Code:

- a. Animal clinics or kennels;
- b. Bed and breakfast;
- c. Boarding house;
- d. Daycares;
- e. Dispatch centers, where employees come to the site and are dispatched to other locations;

f. Manufacturing utilizing power tools or similar equipment such as furniture refinishing or building, cabinet making, metal fabrication or cutting, employing welding or cutting, or other similar uses, except for minor and incidental use of such equipment deemed allowable by the Zoning Administrator;

g. Medical clinics;

h. On-site retail sales involving on-premise customer service, except as may be permitted as an accessory use to a Type II Accessory Home Occupation;

i. Repair or assembly of vehicles or equipment with internal combustion engines (such as automobiles, lawnmowers, motorcycles, snow-mobiles and other similar equipment);

j. Restaurants;

k. Schools;

l. Towing services; and

m. Other uses with similar operating characteristics as determined by the Zoning Administrator.

D. Accessory Home Occupation Performance Standards.

1. Outdoor Activities. All activities shall be conducted wholly within the principal structure or a permitted accessory structure thereto. External storage or display of goods or equipment shall be prohibited.

2. Appearance of Structure and Site. The dwelling and subject property shall remain residential in character and the Accessory Home Occupation use shall not be discernable from the exterior of the principal structure or permitted accessory structure thereto. No alterations of the structure or subject property which would change the residential appearance of the dwelling and subject property shall be permitted. Examples of such prohibited alterations include construction of parking lots, paving of setbacks, external signage not

otherwise permitted by this Code, or adding commercial exterior lighting.

3. Vehicles. No more than one (1) vehicle shall be discernable as being used in association with the Accessory Home Occupation. The maximum size of such vehicle used in association with the Accessory Home Occupation shall be no more than one (1) ton capacity and shall not include any trailer.

4. Deliveries. Deliveries and/or pick-ups of supplies or products associated with the Accessory Home Occupation shall be allowed only between 8 a.m. and 6 p.m. local time.

5. Nuisances. Unless otherwise permitted by law, no Accessory Home Occupation shall produce any detectable fumes, odors, dust, heat, noise, vibration, glare, electromagnetic field, electrical interference, or other effects outside the dwelling which is incompatible with the characteristics of the residential Zoning District or is otherwise a violation of this Code.

Sec. 12-2. Day Care Facility Zoning Standards.

The following standards are required for approval of day care facilities when such uses are classified as permitted uses within zoning districts and shall serve as guidelines to which additional conditions may be added when day care facilities require conditional use permits to operate within a zoning district:

A. Group Day Care Facilities:

1. Off-street parking adequate to meet the requirements of Code Section 4-6-5.

2. Loading space for at least one (1) vehicle provided in a manner that would not result in a safety hazard to children being picked up or delivered. Such space may be provided in one of the following ways:

a. On-street, when the space is reserved or otherwise generally available, and which is located on the same side of the street as the day care facility. On-street loading space shall be at least thirty feet (30') from any intersection.

b. Off-street, where ingress or egress would not require backing movements by vehicles.

c. Other loading space determined to be safe by the City Engineer considering existing street and traffic conditions and anticipated use of the loading facility.

3. Sight-proof fencing or sight-proof landscaping on perimeters of play area where necessary to protect the privacy of neighbors' yards.

4. Contained or fenced outdoor play area sufficient to comply with the spatial standards required for state licensing.

B. Small Day Care Facility:

1. Off-street parking adequate to meet the requirements of Code Section 4 6-5.

2. Loading space for at least two (2) vehicles provided in a manner that would not result in a safety hazard to children being picked up or delivered. Such space may be provided in one of the following ways:

a. On-street, when the space is reserved or otherwise generally available, and which is located on the same side of the street as the day care facility. On-street loading space shall be at least thirty feet (30') from any intersection.

b. Off-street, where ingress or egress would not require backing movements by vehicles.

c. Other loading space determined to be safe by the City Engineer considering existing street and traffic conditions and anticipated use of the loading facility.

3. Sight-proof fencing or sight-proof landscaping on perimeters of play area

where necessary to protect the privacy of neighbors' yards.

4. Contained or fenced outdoor play area sufficient to comply with the spatial standards required for state licensing.

C. Large Day Care Facility:

1. Off-street parking adequate to meet the requirements of Code Section 4 6-5.

2. Loading space for at least two (2) vehicles provided in a manner that would not result in a safety hazard to children being picked up or delivered. Such space may be provided in one of the following ways:

a. On-street, when the space is reserved or otherwise generally available, and which is located on the same side of the street as the day care facility. On-street loading space shall be at least thirty feet (30') from any intersection.

b. Off-street, where ingress or egress would not require backing movements by vehicles.

c. Other loading space determined to be safe by the City Engineer considering existing street and traffic conditions and anticipated use of the loading facilities.

3. Sight-proof fencing or sight-proof landscaping on perimeters of play area where necessary to protect privacy of neighbors' yards.

4. Contained or fenced outdoor play area sufficient to comply with the spatial standards required for state licensing.

5. To ensure that traffic generated by a large day care facility will not disrupt a residential neighborhood characterized by low volumes of vehicular traffic, such facilities shall be:

a. Located on city street that has an average daily traffic (ADT) of at least five hundred (500) vehicles per day; or

b. Located within three hundred feet (300') of a school and provide after school service for school age children; or

c. Permitted when the facility is located in a church, grange hall, social center or other large public assembly building; or

d. Upon issuance of a conditional use permit.

6. To ensure compliance with these standards, a site plan shall be submitted for large day care facilities indicating parking, loading, traffic flow characteristics and related signage.

D. Use of right-of-way for loading is discretionary; the City Engineer must review and approve or deny proposed parking. The Zoning Administrator shall review for compliance with other standards; appeal of staff decisions shall be considered by the Board of Adjustments as the Building Board of Appeals.

Sec. 12-3. Large Retail Establishments

A. Large Scale Establishments.

1. New Large Retail Establishments. Every new Large Retail Establishment shall comply with the provisions of this Section and the City of Moscow Large Retail Establishment Design Manual (Design Manual), as adopted or amended by Resolution of the Council. Any substantive deviation from a standard required by the Design Manual shall require a Variance.

2. Expansion of Existing Large Retail Establishments. The following is required for expansion(s) of a Large Retail Establishment:

a. Any one time expansion of an existing Large Retail Establishment shall comply with Subsection (4)(d) Stormwater Management (for any proposed additional impervious surface areas). Additionally, the

provisions of the Design Manual shall apply to the greatest extent feasible in consideration of the existing site development, as determined by the reviewing body.

b. Conditions of Reconstruction. If any existing Large Retail Establishment should be destroyed by any means to an extent of more than seventy (70%) percent of the replacement cost of the whole structure at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Design Manual (to the greatest extent feasible in consideration of the existing site development, as determined by the Zoning Administrator).

3. Large Retail Establishments that includes less than one hundred forty (140) parking stalls shall not be subject to Section 2.2, Parking Lots, of the Design Manual.

4. Large Retail Establishments Greater Than Sixty Five Thousand (65,000) Square Feet. In addition to other requirements contained in the Design Manual, every application for a new Large Retail Establishment of greater than sixty five thousand (65,000) square feet of gross floor area or any application for the expansion of more than thirty percent (30%) of any existing Large Retail Establishment, where such expansion would result in the creation of a Large Retail Establishment of greater than sixty five thousand (65,000) square feet of the gross floor area, shall address and include all of the following items:

a. Site location and existing and future streets and pathways. The applicant shall show, as part of the application, that the proposed development does not preclude the logical and orderly extension of existing public streets and pathways and does not preclude the development of future planned streets and

pathways, as generally identified within the City's Comprehensive Plan.

b. Multimodal Traffic Study. The applicant shall provide a Traffic Impact Study (including pedestrian, bicycle, transit and motorized travel) in accordance with City Traffic Impact Study Standards. Such Traffic Impact Study shall include an assessment of the impacts of the proposed development upon vehicular, pedestrian, bicycle and transit transportation systems and services anticipated in the vicinity of the development for twenty (20) years from the anticipated date of completion of the proposed development. Such Traffic Impact Study shall include an analysis of all proposed measures to mitigate impacts of the proposed development. All Traffic Impact Studies shall be reviewed and approved by the City Engineer.

c. City Services and City Infrastructure Impact Assessment. The applicant shall provide a public utility service impact analysis of the proposed use and its anticipated impacts upon the City's physical infrastructure and the service delivery of essential City services including water, sanitary sewer, storm sewer, police, fire and sanitation services. Such assessment shall include an analysis of the proposed development's anticipated service demand, adequacy of existing service infrastructure, and an assessment of the impacts the proposed use may have upon other users and the service provider. Such analysis shall also include any potential and proposed measures necessary to mitigate such impacts. Payment of costs for increasing service capability and/or over-sizing or upgrading of service infrastructure, as necessary to mitigate the impacts of the proposed development, shall be the

responsibility of the applicant. All City services impact studies shall be reviewed and approved by the City Engineer.

d. Stormwater Management. Stormwater runoff shall not be discharged into the public storm sewer system or into any natural drainage system, without being detained in accordance with this Code and without being treated to the most current quality standards, as prescribed by the Idaho Department of Environmental Quality in the catalog of Stormwater Best Management Practices for Cities and Counties. Stormwater facilities shall be designed to detain and release stormwater at a rate that shall not exceed the pre-development stormwater discharge rates for the two- (2) year storm, ten- (10) year storm, and twenty-five- (25) year storm events and shall be designed as treatment train systems (i.e. multiple devices and/or methods to improve water quality and increase evaporation). Treatment trains shall include a vegetative primary treatment component, such as a bio-filtration swale, filter strips, or other similar devices. The level of water quality treatment shall be designed for two- (2) year storm event post development flows. Stormwater facilities shall be aesthetically pleasing amenities consistent with Design Manual Central Features and Community Spaces Guidelines and Standards. Regionally viable vegetation shall be planted inside open earthen detention ponds. Above ground detention vaults or ponds with slopes greater than three to one (3:1) or those containing vertical walls shall be provided with a six foot (6') high fence or wall at the top of the slope for security and safety purposes. A type "B" landscape buffer yard, as described in this Zoning Code, shall be required around the outside perimeter of the fence or wall.

Storage, display, or sale of chemicals, pesticides, fertilizers, liquid petroleum and any product containing any chemical listed in the Code of Federal Regulations Title 40, Chapter 1, Subpart d, Part 131.369, as amended, shall be prohibited in areas not protected from weather (such as parking lots) and from areas not located or designed to prevent contamination of stormwater runoff. All stormwater management plans shall be reviewed and approved by the City Engineer.

e. Standards for Materials Submitted. Each study, report, analysis, certification, or assessment required by the City or offered by the applicant shall be paid for by the applicant and shall be conducted by professionals educated, trained and experienced in the appropriate field and shall be mutually agreed upon by the applicant and the City.

5. Community Meeting Required. All proposed new Large Retail Establishments and expansions of existing Large Retail Establishments greater than thirty percent (30%) of the existing gross floor area shall require a community meeting in accordance with the following requirements:

a. Meeting Purpose. The purpose of the community meeting is to allow the applicant for a Large Retail Establishment to present the proposed development to the community and other members of the public prior to consideration by the City so that the parties can discuss and consider neighborhood and community impacts, mitigation, design and construction elements, and the like. Conduct by all participating in the community meeting should be respectful, should avoid personal attack, and should be directed toward gathering and exchanging information regarding the proposal(s).

b. Meeting Notice and Location. Notice of a community meeting shall be given to all property owners within six hundred feet (600') of the subject property, shall be posted upon the subject property of a size and location that renders such notice visible and legible to persons in the vicinity of the subject property, published in the local newspaper and provided to local media. Such notice shall be provided at least fourteen (14) days before the community meeting. Mailed notice shall be made by U.S. mail to the current or last known property owners of record as determined by review of the records in possession of Latah County. Alternatively, the City may provide a list of property owners to the applicant upon request and receipt of the appropriate fee.

The community meeting shall be set at a date, time, and place reasonably calculated to facilitate the attendance of the public. Evening meetings during the work week are encouraged.

c. Meeting Content and Conduct. The applicant or applicant's representative shall chair and conduct the meeting according to orderly procedures. The chair should provide the participants in the community meeting a fair chance to be heard. The chair will have the authority to recognize participants in the meeting and to maintain order in the conduct of the meeting. Formal rules of evidence will not apply during the meeting but the chair may limit the duration of comments or presentation where necessary to give the broadest number of participants the opportunity to express their views. Each meeting shall be conducted so that those in attendance can discuss the project/proposal which is the subject of the application(s) to be filed. Where more than one (1) application

is to be considered, the meeting shall include discussion of all related matters. For example, where there is to be a submittal for a rezoning along with the Large Retail Establishment, both shall be thoroughly discussed in the community meeting and shall satisfy any Neighborhood Meeting requirement of this Code.

d. Submission of Meeting Materials Required. Where community meetings are required, the following community meeting materials shall be submitted with the application(s).

- i. Time, date and location of the community meeting,
- ii. Names and addresses of property owners to whom notice was sent,
- iii. Names and addresses of all attendees,
- iv. Summary of comments, suggestions and discussion,
- v. Applicant’s response to comments, suggestions and discussion, including any modifications made or intended to be made to the project proposal/application as a result of the community meeting comments,
- vi. Materials utilized or submitted (including plans, proposals, designs, power point presentations, maps, handouts, petitions, letters, studies, etc.) shall be submitted with the application for the related project(s).

A verbatim transcript is not required nor is a video and/or audio tape (unless the applicant wishes to submit it). The summary of comments, suggestions and discussion should be extensive enough to allow the reader to understand what occurred.

6. Design Manual Review. All applications for new Large Retail Establishments and expansions of existing Large Retail Establishments shall be reviewed by the Zoning

Administrator for conformance to the standards and requirements of the Design Manual. The Zoning Administrator shall review the site plan, landscape plan, and architectural building plans and building elevations for conformance with the requirements of the Design Manual.

a. Alternate Compliance Methods. The Zoning Administrator shall be authorized to approve alternate compliance methods to meet the purposes and intents of the specific requirements of the Design Manual where the Zoning Administrator finds such alternate compliance methods are in keeping with the intents and purposes of the Design Manual and where such alternate compliance methods will achieve equivalent or superior mitigation of impacts of the proposed Large Retail Establishment or its expansion.

b. Design Review Decision. Upon completion of the design review, the Zoning Administrator may approve the proposed development, approve the proposed development with conditions of approval related to specific requirements of the Design Manual, or deny the proposed plans with specific direction to the applicant regarding what specific elements of the development plans must be modified to comply with the Design Manual.

c. Design Review Decision Appeal. Appeals or design review decisions by the Zoning Administrator shall be made to the Council.

(Ord. 2011-15, 09/19/2011)

Sec. 12-4. Telecommunications Facilities.

A. Applicability. This section shall apply to antenna towers, antenna support structures, antennas and their ancillary facilities (telecommunications facilities) any of which are used to provide commercial

telecommunications services. This section shall not apply to noncommercial antenna towers exclusively used as accessory to a residential use on the same lot.

B. Purpose.

The provisions of this section are intended to ensure that telecommunications facilities are located, installed, maintained and removed in a manner that:

1. Minimizes the number of antenna towers throughout the community;
2. Encourages the co-location of telecommunications facilities;
3. Encourages the use of existing buildings, light or utility poles, water towers or other structures for antenna mounting and discourages construction of new antenna towers;
4. Ensures that telecommunications facilities are located and designed to minimize visual impact on the surroundings.
5. Ensures that regulation of telecommunications facilities does not have the effect of prohibiting the provision of telecommunications services, does not unreasonably discriminate among functionally equivalent providers of such services, and allows the provision of adequate area coverage by such services.

C. Definitions.

1. Ancillary Facilities. Buildings, cabinets, vaults, enclosures, equipment, and the like required for operation of telecommunications systems.
2. Antenna. Any device that transmits and/or receives radio waves, microwaves, or other electro-magnetic radiation for voice, data or video communications purposes including, but not limited to, television, AM/FM radio, micro-wave, cellular telephone and similar forms of communications.
3. Antenna Support Structure. Any structure or building not constructed primarily for the purpose of

supporting an antenna but that supports an antenna as a secondary or accessory use.

4. Antenna Tower. Any structure or pole erected primarily for the purpose of supporting one or more antennas that are used to provide commercial wireless communications or telecommunications services.

5. Antenna Tower Height. The overall vertical length of the antenna tower above ground level.

6. Co-location. Placement of one or more antenna(s) on an antenna support structure or the placement of an antenna on an antenna tower on which one or more antennas are already located.

7. Lattice Tower. An antenna tower characterized by a framework of lateral or diagonal cross members that stabilize the tower.

8. Monopole. An antenna tower that consists of a single upright pole, which is self-supporting and without supports or guys.

9. Telecommunications facilities. Antenna towers, antenna support structures, antennas and their ancillary facilities that are used to provide commercial wireless communications or telecommunications services.

10. Temporary Antenna Tower. An antenna tower established for the purpose of providing telecommunications services on a temporary basis for a special event or to temporarily replace an antenna tower while it is being repaired.

D. Use Regulations

1. The installation of lattice towers is prohibited except lattice towers that qualify and are permitted as temporary antenna towers. Replacement, relocation or alteration of non-conforming lattice towers shall be subject to the Nonconformity Regulations in Section 4-1-8 of this Zoning Code.

2. A Conditional Use Permit shall be required before the installation, relocation, replacement, and/or alteration of an antenna tower that exceeds thirty-five feet (35') in height.

3. Co-location shall be a permitted use if the property upon which such antenna is located is within one of the following Zoning Districts: U, RO, NB, RTO, CB, GB, MB, or I. An antenna may be co-located as a permitted use on existing antenna towers and antenna support structures in all zoning districts if the antenna extends no more than eighteen feet (18') above, and projects no more than eight feet (8') horizontally away from the existing tower or support structure. Co-location shall also be a permitted use on nonconforming antenna towers if the antenna extends no more than eighteen feet (18') above, and projects no more than eight feet (8') horizontally away from, the nonconforming antenna tower.

4. A temporary antenna tower as defined herein shall be a permitted use in all zoning districts, subject to site plan approval by the Zoning Administrator. The duration of the temporary antenna tower at the site shall not exceed the special event time or the time reasonably needed to repair the antenna tower in need of repair.

E. Development Standards

1. Antenna Tower Setback from Highway Right-of-Way.

No antenna tower that exceeds sixty feet (60') in height shall be permitted within five hundred feet (500') of US Highway 95 and/or State Highway 8 rights-of-way unless the proposed site is in the U, MB, or I Zoning District, in which case the antenna tower shall be set back a minimum of one hundred feet (100') from said right-of-way.

2. Security.

Every telecommunications facility shall be protected from

unauthorized access by appropriate security measures.

3. Lighting.

Every antenna and antenna tower shall not be lighted unless required by the Federal Aviation Administration or other state or federal agency having such authority, and such lighting shall not be more than the minimum required by such agency.

4. Noise Reduction.

In any SR, R-1, R-2, R-3, or R-4 Zoning District, and in all other Zoning Districts when the adjacent property is zoned SR, R-1, R-2, R-3, or R-4 or occupied by a dwelling, hospital, school, library, or nursing home or similar use, noise generating equipment shall be sound-buffered by means of baffling, barriers, or other suitable means to reduce sound level measured at the property line to forty five decibels (45 dB).

5. Signage.

The placement of signage on antenna towers is prohibited, except for the placement of security signage, which shall not exceed six (6) square feet on each side of the antenna tower and shall not be located higher than six feet (6') above grade. Additionally, one security sign not to exceed one (1) square foot may be provided on each fifty feet (50') of wall or fence enclosing the facility.

6. Antenna towers shall be separated from the property line of any adjacent property zoned SR, R-1, R-2, R-3, or R-4 at least a distance equal to the height of the antenna tower, and shall be separated from all other adjacent property lines at least a distance equal to one-half (1/2) the height of the antenna tower.

7. Aesthetic Considerations.

a. Antenna towers shall be painted a neutral color consistent with the natural or built environment of the subject site and the surrounding area unless otherwise required by the

Federal Aviation Administration or any other state or federal agency having such authority.

b. Equipment shelters or cabinets shall have an exterior finish compatible with the natural or built environment of the subject site and the surrounding area and shall also comply with any design guidelines applicable to the particular zoning district in which the facility is located.

c. Antennas and cables shall be of a color identical to or closely compatible with that of the structure to which they are attached unless otherwise required by the Federal Aviation Administration or any applicable state or federal agency. Telecommunications facilities located above ground in or directly adjacent to any SR, R-1, R-2, R-3, and R-4 Zoning Districts shall be surrounded by a minimum six-foot (6') high decorative wall constructed of brick, stone, or textured concrete block. Said wall shall be surrounded by a Type "A" Landscape Buffer Yard planted adjacent to said wall or fence or at an alternate location providing equal or better buffering. Telecommunications facilities in all other Zoning Districts shall be surrounded by a minimum six-foot (6') high wall or solid or slatted fence. Said fence or wall shall be surrounded by a Type "A" Landscape Buffer Yard planted adjacent to said wall or fence or at an alternate location providing equal or better buffering.

d. Vehicle or outdoor storage on any antenna tower site is prohibited unless otherwise permitted by the Zoning District in which the tower is located.

e. At least one (1) on-site parking stall with a vehicle turnaround area shall be provided at each antenna tower site. The parking area and driveway to it shall consist of asphalt, concrete, or gravel.

f. Ancillary facilities located above ground for antennas in or directly adjacent to any SR, R-1, R-2, R-3, or R-4 Zoning District shall be set back a minimum of twenty-five feet (25') from any SR, R-1, R-2, R-3, or R-4 zoned property, unless the applicant can demonstrate that the specific proposal will present no greater adverse visual and audio impacts to surrounding properties. Above ground ancillary facilities in any other Zoning District shall be located a minimum of fifty feet (50') from any SR, R-1, R-2, R-3, or R-4 zoned property, unless the applicant can demonstrate that the specific proposal will present no greater adverse visual and audio impacts to surrounding properties.

F. Co-Location

1. Existing Antenna Towers.

Prior to the issuance of any permit to relocate, alter or modify any antenna tower, the tower owner shall provide to the City a notarized written commitment to make said antenna tower available for use by others subject to technical and structural limitations and reasonable financial terms. The failure of an antenna tower owner to agree to shared use or to negotiate in good faith with potential users shall be unlawful and, among other remedies of the City, shall be just cause for the withholding of the issuance of future antenna tower permits to such an owner as well as revocation of antenna tower permits for any antenna tower on which co-location is refused or unreasonably hindered.

2. New Antenna Towers.

Any new or relocated antenna tower eighty feet (80') or greater in height shall be designed and constructed to accommodate at least two (2) additional users unless a larger number of users needs to be accommodated as indicated by the

response to the Notice provisions herein. As an alternative, a smaller tower may be approved if the tower owner commits in writing to “swap out” to a larger tower when needed to allow co-location space for additional service providers. A notarized written commitment to shared use as specified in subsection F.1 above shall be submitted to the Zoning Administrator by the antenna tower applicant. The failure of the owner of an antenna tower built with a capacity for shared use to negotiate in good faith with potential users shall be unlawful and shall be a violation of this Ordinance and, among other remedies of the City, shall be just cause for the withholding of the issuance of future antenna tower permits to such an owner as well as revocation of antenna tower permits for any antenna tower on which co-location is refused or unreasonably hindered.

3. Antenna Tower Inventories.

Prior to the issuance of any permit to install, relocate, replace or alter any antenna tower, the tower owner shall furnish the Zoning Administrator an inventory of all of the owner’s antennas and antenna towers in the City of Moscow and the Area of City Impact. The inventory shall include the reference name or number, or other description of location including a site map(s), structure type, height, type of antenna tower(s) or antenna support structure(s) and height of all existing antennas and an assessment of available ground space for the placement of additional equipment shelters for potential future users.

4. Notice of Antenna Tower Permit Applications.

The applicant for any antenna tower permit shall have a copy of the application and a summary containing the height, design, location, type and frequency of antennas delivered by

certified mail to all known and potential antenna tower users as identified by a list maintained by the Community Development Department. Proof of such delivery of the summary shall be submitted with the permit application to the City. Such notification shall be so mailed no less than sixty (60) days prior to Zoning Administrator decision or Board of Adjustment public hearing and shall specifically solicit co-location discussion between the applicant and recipients of the notice. The Zoning Administrator may establish a form required to be used for such notifications. Upon request, the Zoning Administrator shall place on a list the name and address of any user or prospective user of antenna towers to receive notification of applications. The failure of the party receiving such Notice to use this process or respond to any such Notice may be considered cause for denying requests by such party for antenna tower permits. Such response shall be provided in writing to the Zoning Administrator within forty five (45) days of mailing and shall contain a statement specifying desire to co-locate on the applicant’s proposed tower and a statement regarding the responder’s ability to accommodate the needs of the applicant on an existing tower or support structure owned or operated by the responder. Additionally, the Zoning Administrator shall cause notice of any required public hearing for a proposed antenna tower to be mailed to owners of property within six hundred feet (600’) of the permit application site not less than sixty (60) days prior to the public hearing.

G. Permits Required

A building permit shall be required to construct, install, relocate, replace, or alter any antenna tower. An administrative zoning permit shall be required to locate or replace any

antenna on an antenna tower or antenna support structure. A Conditional Use Permit shall be required as specified in Section D herein.

An application for any of the above-mentioned permits shall include or be accompanied by all of the information necessary to determine and document compliance with the regulations established herein. Where no application or permit form exists, the application shall be in the form of a letter signed and dated by the applicant, and the permit issuance shall be in the form of a letter of approval signed and dated by the Zoning Administrator or a dated signature by the Zoning Administrator on the applicable site plan.

Specific permit application submittal requirements shall be determined by the Zoning Administrator and may include, but are not limited to, the following:

1. Permit application.
2. Site plan.
3. Elevation drawing(s) of the antenna tower or antenna support structure, antenna(s) and ancillary facilities.
4. Description of proposed and required lighting including light locations. Documentation of required lighting, as specified in Section E.3 herein, may be deferred until prior to issuance of building permit if not available at time of application submittal.
5. Any plans necessary to depict structural requirements.
6. Description of the number and types of antennas being proposed, as well as the expected or known capacity of the antenna tower in terms of the number of antennas the antenna tower can accommodate.
7. Antenna tower or antenna location study specifying the search

process by which the proposed site was chosen.

8. Antenna tower inventory as specified in Section F.3 herein.

9. Notarized written commitment to allow co-location/shared use as specified in Section F herein.

10. Documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIER) or radio frequency (RF) emissions standards as established by the Federal Communications Commission (FCC). Such documentation may be deferred until prior to issuance of building permit if not available at time of application submittal.

11. Current FCC license to operate.

12. Documentation of a review by the Federal Aviation Administration (FAA) and/or the Aviation Division of the Idaho Transportation Department (ITD). Such documentation may be deferred until prior to issuance of building permit if not available at time of application submittal.

13. Name and address of the property owner, telecommunications service provider, and owner of the telecommunications facility on the permit application, and a written statement of approval of the application by the property owner.

14. Description of proposed security measures as required in Section E.2 herein.

H. Findings for Conditional Use Permit. Before a Conditional Use Permit for an antenna tower may be issued, the applicant must demonstrate, and the Zoning Board of Adjustment must find, compliance with all of the following:

1. No existing antenna towers or antenna support structures within the necessary geographic area for the applicant's antenna tower meet the applicant's requirements considering (a) height, (b) structural integrity, or (c) that there are other prohibitive

conditions that render existing antenna towers or antenna support structures within the applicant’s required geographic area unsuitable.

2. That the design of the antenna tower, including the antennas and ancillary facilities, minimizes visual impact and otherwise complies with provisions and intent of this section.

3. That the proposed antenna tower location minimizes the number and/or size of antenna towers or antenna support structures that will be required in the area.

4. That the applicant has not previously failed to take advantage of reasonably available shared use opportunities or procedures provided by this Ordinance or otherwise.

These findings shall be required in addition to those required for the Reasoned Statement of Relevant Criteria and Standards provided in Section 4-8-4 of the Zoning Code.

I. Abandonment and Removal.

All telecommunications facilities shall be removed by the owner of the facility, by the operator of the facility, and/or by the property owner within six (6) months of the time that the facility has substantially ceased being used to provide telecommunications services to the public. Removal shall not be required when the owner or operator of the facility has, within the aforementioned six (6) months, filed with the City a written request to reuse the antenna tower and the City has approved such request. Such written request shall detail the circumstances that justify why the antenna tower should not be removed, why it will be unused for six (6) months or more, and shall commit to a date certain, not to exceed twelve (12) months from the date of last use, by which time the antenna tower will again provide telecommunications services to the public. Before issuance of an antenna tower permit, the applicant for any

antenna tower permit shall provide to the City financial security, such as but not limited to an open-ended bond, to ensure removal of the antenna tower and ancillary facilities after the facility is no longer being used to provide telecommunications services to the public.

J. Affirmative Duty to Keep City Informed.

All telecommunications service providers having telecommunications facilities in the jurisdiction of the City shall be required to report in writing to the Zoning Administrator any change in the status of their operations. Change in status shall include, but is not limited to, the following:

1. Change in or loss of license from the FCC to operate.
2. Receipt of notice of failure to comply with the regulations of any other authority having jurisdiction over the business or facility.
3. Change in ownership of the company that owns the telecommunications facilities or that provides telecommunications services.
4. Loss or termination of lease with the property owner or the owner of the telecommunications facilities.
5. Abandonment of a facility or non-use of a facility for a period of six (6) months or longer.

All telecommunications service providers having facilities in the jurisdiction of the City shall file with the Zoning Administrator an annual written statement verifying continued use of each of their facilities in the City’s jurisdiction as well as continued compliance with state and federal agency regulations.

Sec. 12-5. Townhouses

A. Building Development Standards.

1. Building Orientation and Front Entry Feature. The front and main entrance of all townhouse units shall

be oriented toward and shall face the adjacent public street.

2. Front Entry Feature. Townhouse units shall include a porch or stoop entry feature that clearly establishes the location of the principal entry of the townhouse unit and the orientation of the unit to the adjacent public street. This shall be accomplished through the provision of one of the following elements:

a. covered front porch feature of no less than four feet (4') in depth and six feet (6') in width;

b. covered front stoop of no less than four feet (4') in depth and four feet (4') in width; or

c. any other significant entry feature deemed equivalent by the Zoning Administrator.

3. Façade and Roof Line Articulation. Townhouses should be designed as a unified building mass with common architectural styling and details. The building mass shall be varied by material and color variations, shifts in roof profiles and variation at corner units. Individual units shall be expressed through façade articulation or vertical divisions between individual units and through roof structure variation that expresses the individuality of each unit.

4. Fenestration. Townhouse units shall include door and/or window openings upon all front and exterior side walls to provide adequate natural light, provide architectural detailing, and to enhance security upon adjacent sidewalks and streets. Windows and doors shall occupy no less than ten percent (10%) of front wall and exterior side wall areas.

5. Building Height. Maximum building height shall be as specified within the applicable Zoning District.

6. Unit Grouping and Spacing. Townhouse buildings shall contain no more than eight (8) contiguous units.

Spacing between townhouse buildings shall be no less than sixteen feet (16').

Spacing between townhouse buildings shall include a four foot (4') wide pedestrian easement and sidewalk joining the alley, or rear of the townhouse development, to the public sidewalk adjacent to the front public street.

B. Parking and Access.

1. Street Access. Rear vehicular access to townhouse developments via an existing public alley or a private drive within the townhouse development is preferred; however, front vehicular access can be allowed in accordance with the standards herein.

2. Curb Cut Minimum Spacing. Curb cut spacing shall be no less than twenty four feet (24') apart, as measured from the two closest points of the curb cuts. Front loaded townhouse units curb cuts shall be no more than twenty feet (20') in width and such curb cuts shall be used to serve the two (2) adjacent units. Curb cuts for private drives that provide access to rear loaded townhouse units shall be no more than twenty four feet (24') in width.

3. Garage Design. The garage door on front loaded townhouse units shall occupy no more than sixty percent (60%) of the townhouse unit width. Front loaded garage doors shall be recessed from the surrounding structure and shall include design features and windows that complement the townhouse design and shall be painted to match the townhouse unit served by such garage.

4. Guest Parking. Townhouse developments of more than twenty four (24) units shall provide off-street guest parking at the rate of one (1) stall per each four (4) townhouse units. Such guest parking shall be located within the required spacing

between townhouse buildings or at the rear of the townhouse buildings.

- C. Open Space Requirements. Open space shall be provided as follows:
1. Private Open Space Requirement. Each townhouse unit shall provide a minimum of one hundred eighty (180) square feet of functional open space which may be provided via a private yard, balcony, deck, roof garden or patio area. The smallest dimension of such open space shall not be less than eight feet (8') and fencing or other privacy screening shall be provided between adjacent private open space areas. The required front entry feature and required front yard area shall not be used to satisfy the private open space requirement.
 2. Common Open Space Requirement. Townhouse developments of more than twenty four (24) units shall provide functional common open space of seventy five (75) square feet per unit. Such common open space shall be of a functional size, the smallest dimension of which shall not be less than thirty feet (30') and shall include landscaped and turf areas and shall include at least two (2) different furnishings such as benches, picnic tables, children's play equipment or other similar items.
- D. Landscaping. All townhouse projects shall include aesthetically pleasing landscaping material within the required front and street side yard areas of sufficient quantity to buffer and soften the building massing. Such landscaping shall include a combination of trees, shrubs and other landscaping materials. Plans for such landscaping shall be required as part of the building permit application and shall be subject to approval of the Zoning Administrator.

(Ord. 2010-24, 11/15/2010)