

ARTICLE 7

SUPPLEMENTAL DISTRICT REGULATIONS

7.01 Purpose and Intent

Unless otherwise stated, the regulations hereafter established shall apply within all districts established by this Ordinance. These regulations supplement and qualify the district regulations appearing elsewhere in this Ordinance. (2004-103)

7.02 Height Exceptions

Chimneys, cooling towers, elevator head houses, monuments, stage towers or scenery lofts, tanks, water towers, ornamental towers and spires, church steeples, or necessary mechanical appurtenances usually required to be placed above the roof level are not subject to the height limitations contained in Article 5, "Zoning District Regulations," except that such structural projections shall not exceed the height regulations of the district in which the structure is situated by more than twenty (20) percent, except as indicated below:

1. Structural projections exceeding the above height limitations shall be considered Special Uses and shall be processed in accordance with Article 14.03 Special Use Permits, of this Ordinance; provided further that any such structural projections shall require an increased building setback of one (1) foot on all sides for each additional two (2) feet that such structure exceeds the specified height limit as established by the regulations of the district in which such building is situated;
2. Height limitations and exceptions associated with antennas and satellite dishes shall be governed by Section 7.08 of this Article.

7.03 Setback Exceptions

1. Every part of a yard between the property lines and the required building setback line shall be unoccupied and unobstructed by any building or structure or portion of a building or structure from thirty (30) inches above the general ground level of the graded lot upward, except for: (2017-044)
 - a. Accessory buildings or structures where otherwise allowed in a rear or side yard; (2017-044)
 - b. Fences, walls, hedges, flagpoles and other customary yard accessories, ornaments and furniture; may be permitted in any yard subject to location and size limitations, height limitations and requirements limiting obstruction of visibility contained in Article 7.10 of this Ordinance or other provisions of the DeKalb Municipal Code.
2. Open or lattice-enclosed fire escapes, unenclosed fireproof outside stairways, balconies opening upon fire towers and the ordinary projections of chimneys and flues, or bay windows may project into the required side or rear yard building setback for a distance of not more than three and one-half (3-1/2) feet.
3. An unenclosed porch or stoop may project into the required front yard building setback for a distance not exceeding ten (10) feet. An enclosed vestibule containing not more than forty (40) square feet may project into the required front yard building setback for a distance not to exceed four (4) feet. Bay windows may project into the required front yard building setback for a distance not to exceed three and one-half (3-1/2) feet. (2017-044)
4. Patios, stoops, decks, enclosed porches, retaining walls and similar ornamental features which do not extend more than three (3) feet above the floor level of the ground (first) story may project into a required side or rear yard building setback, provided these projections be distant at least two (2) feet from the adjacent side or rear lot line. (2017-044)

5. *Required front yard building setback heretofore established:* Where forty (40) percent or more of the lots on one side of a street between two intersecting streets are developed with buildings that do not conform to the required front yard setback; the required building setback may be adjusted as follows:
 - a. Where a building is to be erected on a parcel of land that is within one hundred (100) feet of existing buildings on both sides, the minimum required front yard building setback shall be a straight line drawn between the two closest front corners of the adjacent buildings on the two sides, or
 - b. Where a building is to be erected on a parcel of land that is within one hundred (100) feet of an existing building on one side only, such building may be erected at the same or greater setback as the existing adjacent building.
6. *Front Yard Setbacks on Corner Lots of Record:* Where a lot of record is located at the intersection of two or more streets, there shall be a setback on each street side of the corner lot equivalent to the front yard building setback requirement of the zoning district in which the lot is located. However, the required front yard building setback from the longer of the two front lot lines may be reduced to a distance that is equivalent to fifteen (15) feet or twenty (20) percent of the lot width, whichever is greater. This exception only applies to legal lots of record, created before March 26, 1956.
7. *Side and Rear Yard Setbacks:* In any zoning district, the minimum required side and/or rear yard building setback(s) shall be a distance that is equivalent to twenty (20) percent of the lot width and/or depth, or the district's required side and/or rear yard building setback, whichever is less.
8. Where residential dwelling units are permitted above non-residential use (i.e., commercial), setback requirements for the non-residential use shall govern building placement on the lot.
9. **ADDITIONAL SETBACK REQUIRED:** Where residential property fronts upon a Minor Collector, Major Collector, Arterial, or Regional, County or State Highway, as designated on the Development Plan Map or in the Comprehensive Plan, the minimum front yard setback shall be increased by the following amounts:
 - a. Minor Collector: Ten (10) feet;
 - b. Major Collector: Fifteen (15) feet;
 - c. Arterial: Twenty (20) feet;
 - d. Regional, County or State Highway: Twenty-five (25) feet.

This additional setback only applies to lots or dwelling units approved as part of a Planned Development, subdivision, rezoning, special use permit, or any other zoning or subdivision action occurring after this Amendatory Act of 2004.

This additional setback does not apply to lots platted prior to this Amendatory Act of 2004, nor in circumstances where this requirement would otherwise be reduced or eliminated through the provisions of Article 7.03, Paragraph 5, above.

7.04 Accessory Uses, Buildings and Structures

1. Accessory buildings or structures may be built in a required rear yard, but such buildings, structures or combination thereof shall not cover more than thirty (30) percent of the required rear yard. On lots platted prior to this Amendatory Act of 2004, which are less than fifty feet in width, the maximum thirty (30) percent rear yard coverage (above) shall not apply; however the total of all structures on the lot shall not exceed a coverage of fifty (50) percent of the lot area, and all other setbacks shall apply.
2. Any accessory building attached in any structural manner to the principal building must conform to the minimum setback requirements for the principal building.
3. Accessory building or structures less than ten (10) feet from the principal building shall conform with the minimum setbacks required for the principal building or those setbacks required under paragraph 4 below, whichever is greater. (2017-044)
4. Accessory buildings or structures ten (10) feet or more from the principal building shall meet the following minimum setbacks: (2017-044)
 - a. Garages which enter directly onto an alley shall be set back from the alley right-of-way at least ten (10) feet.
 - b. Any accessory structure (except for fences) shall be set back from any side or rear lot line at least two (2) feet, plus one (1) additional foot for each one (1) foot by which the height of such structure exceeds fourteen (14) feet.
 - c. Swimming pools (above-ground or in-ground) shall be subject to Chapter 24 "Building Code" of the Municipal Code. The edge of the water of swimming pools shall be set back from a side or rear lot line at least ten (10) feet, and accessory equipment shall be set back at least five (5) feet. (2017-044)
 - d. The setbacks for paragraph b, above, shall not apply for historically based detached accessory buildings within an Historic District or on properties designated a local landmark, provided the proposed building is approved by the Landmark Commission. In such case the building placement may be as approved by the Landmark Commission.
5. No detached accessory building shall exceed the height of the principal building, and no detached accessory building shall exceed the number of stories of the principal building.
6. The total area at ground level (footprint) of all detached accessory buildings upon a lot shall not exceed the total area at ground level (footprint) of the principal building. The gross floor area of all detached accessory buildings upon a lot shall not exceed the gross floor area of the principal building.
7. No detached accessory building in a residential zoning district shall be constructed or used for the purposes of human habitation.
8. Detached accessory buildings in residential zoning districts may be provided with water and sanitary sewer service meeting the following standards:
 - a. No more than one (1) each of the following fixtures shall be allowed:
 - 1) Lavatory, slop sink, or other sink;
 - 2) Urinal, toilet, or other water closet fixture;

- 3) Water heater, but only if provided with an expansion tank;
 - 4) Hose bib conforming to ASSE 1019;
 - 5) Floor drain, and in areas larger than one thousand (1,000) square feet, the floor drain shall also have a gas and oil separator.
- b. No other plumbing fixtures are allowed in the accessory structure;
 - c. The water service to the detached accessory structure shall be equipped with a backflow prevention assembly conforming to ASSE 1013;
 - d. The building shall be heated and shall have a full perimeter frost footing with a minimum depth of forty-two (42) inches below grade;
 - e. All other pertinent building and plumbing codes shall apply.
9. No accessory use shall be established upon a lot, and no accessory building shall be constructed upon a lot until, the construction of the main building has been actually commenced.
 10. An accessory building shall not be located closer to the front lot line than the distance the principal building is located from the front lot line and in no instance shall an accessory building be located within a required front yard setback.
 11. Accessory uses customarily incidental to residential uses, such as the use of a lot or portion thereof for a vegetable or flower garden and the keeping of domesticated animals are permitted, but not on a commercial basis or at a scale reasonably objectionable to adjacent or nearby property owners.
 12. All accessory buildings or structures shall match the character of the intended use, the character of the property and zoning district of which they are a part, and shall conform to all building codes. No vehicle or portion of a vehicle may be converted to an accessory structure, and no temporary or portable structures, tension membrane structure, pods, inter-modal carriers or containers, or similar "drop off and pick up" units shall be used and as accessory structure, except for temporary purposes not exceeding thirty (30) days. (2017-044)
 13. In residential districts, all detached accessory buildings exceeding one hundred twenty (120) square feet in size, shall substantially conform to the principal building in material, type and design of construction, finish and color.
 14. Gasoline dispensing facilities and other unenclosed, roofed structures:
 - a. Pump islands are permitted within the required front yard setbacks provided that they and the entrances and exits to the gasoline station are installed according to the most recent standards of the Illinois Department of Transportation and the Public Works Department. (2017-044)
 - b. Roofed, unenclosed structures to shelter vehicles being serviced at the pump islands are permitted in conjunction with said pump islands subject to the following requirements:
 - 1) There shall be a minimum vertical clearance of fourteen (14) feet between the lowest portion of the roof of said structure and the grade level of the surface below said roof structure;
 - 2) There shall be a minimum setback of twelve feet (12') from the nearest right-of-way line;

- 3) No portion of a roofed, unenclosed structure may be included within the area utilized for off-street parking;
 - 4) No portion of a roofed, unenclosed structure shall impede any portion of a fire lane or interfere with a fire department connection;
 - 5) No portion of a roofed, unenclosed structure shall be so placed on a lot so as to interfere to tend to interfere with fire-fighting equipment or potential fire rescue equipment as may be needed to combat a fire or perform a rescue from a building on or adjoining such lot;
15. Bus Shelters, constructed or installed by the City of DeKalb or agents of the City pursuant to a contract, agreement or license executed by the City, shall be a permitted use in any zoning district when constructed in conformance with the criteria set forth in this Paragraph:
- a. All locations shall be as approved within the contract, agreement, or license;
 - b. Such structures may be located on private property, with proper permission from the property owner, or in the public right-of-way, subject to permission of the jurisdiction having authority over that right of way;
 - c. The agent shall be responsible for maintenance, liability, and any damage claims associated with the structure;
 - d. Advertising or signage material is allowed, including off-premises signage which would otherwise be construed to violate Article 13.03 Paragraphs 2 and/or 4, but is subject to regulations which may be stipulated within the contract, agreement or license. All such signage shall be incorporated into and constitute part of the structure, except for changeable panels which slide into a frame that constitutes a part of the structure. Informational material such as bus schedules, routes, or other material pertaining to Green Line, Huskie Bus Line, or other transit services shall also be permitted;
 - e. Such shelters shall be constructed to minimum Building Code standards as adopted by the City of DeKalb. Final approval on methods of construction, materials, and any other construction related issues shall be as outlined in the contract, agreement or license, and shall be subject to the approval of the Community Development Director or designee.
16. Bus shelters, constructed or installed by any party other than the City or its agent, shall be a permitted use in any zoning district when constructed in conformance with the criteria set forth in this Paragraph:
- a. All requests for bus shelters shall be accompanied by a scale drawing (1/20 scale preferred) showing the proposed location of the shelter in relation to existing structures on the site, existing rights-of-way and other pertinent physical features. One such shelter shall be permitted per bus stop as designated on the Huskie Bus Line and approved by the NIU Student Association. Shelters shall be located outside of the vision triangle as defined in this ordinance. The final location of all such shelters shall be subject to the approval of the Director of Public Works or his/her designee;
 - b. All such structures shall be located on private property out of the public right-of-way. The property owner shall be responsible for maintenance, liability, and any damage claims associated with the structure;
 - c. Any advertising or signage material shall be prohibited from being part of the structure. Informational material such as bus schedules, routes, or other material pertaining to Huskie Bus Line service shall be permitted;

- d. Such shelters shall be constructed to minimum Building Code standards as adopted by the City of DeKalb. Final approval on methods of construction, materials, and any other construction related issues shall be subject to the approval of the Community Development Director or designee.
17. Free-Standing Electronic Banking Facilities shall be considered allowed uses in all Commercial and Industrial zoning districts, subject to the criteria set forth below:
- a. The unit may be located within a required front, side or rear yard, except it may not be located within 10 feet of a public right of way, within five feet of any other property line, nor within any required buffer yard adjacent to a residential zoning district;
 - b. The unit shall be located on private property in a location that provides a minimum of three automobile stacking spaces;
 - c. The unit shall not be located within an area that blocks safe vision for access or vehicle maneuvering throughout the site or on neighboring properties or streets, and in no case shall a unit be located within a sight distance triangle as defined in Article 7.10;
 - d. Neither the unit nor the required stacking area shall be located in an area that conflicts with typical automobile maneuvers within adjacent or nearby parking lots, driving lanes or streets;
 - e. Canopies intended for weather protection of the user shall be allowed, but said structures shall not interfere with any driving lane or maneuvering area, and the clearance height of the structure shall be clearly posted on the unit facing the direction of approach. The maximum height of any such canopy or roof shall not exceed twenty (20) feet;
 - f. Signage on the unit shall be limited to wall and canopy signage. Signs shall not project beyond the edge of the unit, and shall be restricted to the name or type of the electronic banking facility, the name of the sponsoring financial institution, and the types of cards accepted at the unit. All other aspects of the signage, including size, shall be in accordance with Article 13, Signs;
 - g. Lighting shall be provided at and around the unit in a manner that creates a safe environment for the user without adding unnecessary glare or illumination to surrounding streets or properties.

7.05 Screening Requirements

1. In situations where a use is constructed on a commercial or industrial zoned lot, and said lot is located adjacent to, or across an alley from a residentially zoned lot, then the developer of the non-residential use shall provide the following screening within the required rear and/or side yard building setback area:
 - a. Within this setback, there shall be a landscaped area planted with one (1), two and one-half (2-1/2) inch caliper tree for every thirty (30) lineal feet of common property line and other ornamental vegetation having a height not less than six (6) feet at the time of planting so that all non-residential buildings and uses are effectively screened from the view of the abutting residential properties.
 - b. In addition, there shall be placed at the property line a neat, clean and maintained sight-proof fence or wall having a height of six (6) feet.
 - c. The use of earth sculpting, or berms may be allowed in place of the fencing provided they are designed to provide the same screening effect and are designed to avoid erosion, drainage or maintenance problems.

2. Residential developments, when approved as part of a Planned Development, subdivision, rezoning, special use permit, or any other zoning or subdivision action, shall provide the same landscaping and screening as in Paragraph 1, above, when located adjacent to an existing commercial or industrial zoned property, whether developed or vacant. This provision shall not apply to lots platted prior to this Amendatory Act of 2004, when a building permit is all that is necessary to construct a development on that lot.
3. Rooftop mechanical equipment shall be enclosed by an opaque architectural screen or louver that substantially conforms to the color and building materials of the principal structure, and of a height not less than the height of such equipment.
4. Outdoor storage areas must be screened with an opaque architectural screen or fence that substantially conforms to the color and building materials of the principal structure, and of a height not less than the height of the materials stored.
5. Outdoor storage areas shall be paved or hard surfaced in accordance with the Construction Requirements set forth in Article 12.03, Paragraph 1.

7.06 Fences

1. For the purposes of this section, there shall be the following types of fences:
 - a. *Open Fence*: A fence in which the openings in the materials of which the fence is constructed represent more than fifty (50) percent of the area of the fence and which do not interfere with visibility, or the free passage of air, through the fence;
 - b. *Privacy Fence*: All fences other than Open Fences.
2. In residential districts, open fences six (6) feet or less in height are permitted in the rear yard, and in the side yard behind the front of the principal structure. Except as provided for elsewhere in this Ordinance, open fences in non-residential districts shall not exceed four feet in height in the front yard, but may be erected to any height anywhere else on a lot.
3. In residential districts, privacy fences six (6) feet or less in height are permitted in the rear yard and in the side yard behind the nearest front of the principal building on the lot, provided that said fence is located at least five (5) feet from any principal building on adjacent property. In commercial or industrial districts, privacy fences are also allowed in the front yard, but not closer to the street than the required building setback line, when providing screening required elsewhere in this Ordinance.
4. Through lots and corner lots with frontage on more than one street (2009-050):
 - a. *Through lots*: On residential lots that are through lots (lots with frontage on one street and the rear yard having frontage on another street) the front and side fence placement shall comply with Article 7.06.2 or Article 7.06.3. The location of the rear yard fence may abut the property line unless the Plat of Subdivision specifically identifies a greater set-back from the property line. Prior to issuance of a Fence Permit, a Certified Plat of Survey must be submitted to the Building and Code Enforcement Division for review and approval.
 - b. *Corner lots with frontage on more than one street*: On residential corner lots that have frontage on two or more streets, no privacy fences greater than thirty-six (36) inches in height or open fence greater than forty-eight (48) inches in height shall be permitted in the frontage yards (yards that front on the streets). The location of the side and rear yard fence shall comply with Article 7.06.02 or Article 7.06.3 unless the Plat of Subdivision specifically identifies a greater set-back from the property line. Prior to issuance of a Fence Permit, a Certified Plat of Survey must be submitted to the Building and Code Enforcement Division for review and approval."

5. The maximum height of an open fence in front of the front building line established by the principal structure shall be forty-eight (48) inches.
6. The maximum height of a privacy fence in front of the front building line established by the principal structure shall be thirty-six (36) inches, unless allowed elsewhere in this Article.
7. Fences may exceed the above stated maximum heights in a Planned Development, Commercial (PD-C) or any Industrial zoning district when approved as part of a landscaping plan, or as part of a buffering or screening requirement as may be provided for elsewhere in this Ordinance. Also, fences (or walls), used as a decorative feature and/or as a backdrop to an identification sign at subdivision, apartment, condominium or planned development entrances, may exceed the above stated maximum heights, if approved by the Community Development Director.
8. Barbed wire shall not be used to constitute any part of a fence in any zoning district except that part of a fence in a side or rear yard, which is at least six (6) feet above the grade, with the barbed wire attached to the fence above six (6) feet and at a 45 degree angle towards the interior of the property, and either:
 - a. is used to protect an electric power substation or transformer station;
 - b. is located in an "ORI" Office Research and Light Industrial, "LI" Light Industrial District, "HI" Heavy Industrial District, or in a "PD-I" Planned Development – Industrial District;
 - c. is located in a "GC" General Commercial District: except that the use of barbed wire in a "GC" General Commercial District, must be approved by the City Council after a report from the Community Development Director.
9. Fences may be placed at the property line, except no fence shall be erected along, parallel to or substantially parallel to and within five (5) feet of an adjoining property line unless the finished side of the fence faces the adjoining property. If a fence is erected with posts and supports, the side on which the posts and supports are most visible shall be considered the unfinished side. No fence shall be constructed in such a manner or location as to block any natural or planned stormwater conveyance system, nor shall any fence be constructed over or within a stormwater drainage easement.
10. All fences shall conform to the requirements of Section 7.10, "Sight Distance Triangle," of this Article.
11. Prohibited Fences: Electrically charged, chicken wire, permanent snow or any other fence constructed of materials from used or discarded materials including but not limited to corrugated metal, plywood or other type of sheet metal. An underground electrical pet fence is exempt from this prohibition. (2019-025)
12. Temporary Fencing: Temporary fencing is permitted for construction sites, special events, temporary uses pursuant to Article 14.07, and for public safety requirements as determined by the Chief Building Official. (2019-025)

7.07 Home Occupations

7.07.01 Restrictions and Limitations

1. Home occupations are permitted as an accessory use to a residential use in any district subject to the requirements of this Section.
2. Home occupations shall be operated entirely within the principal residential dwelling and shall not occupy more than fifteen (15) percent of the total floor area of the said residential dwelling, with the

use of the dwelling for a home occupation being clearly incidental and subordinate to its use for residential purposes by its occupants.

3. No home occupation is to be conducted in a garage or other accessory structure.
4. In no way shall the appearance of the dwelling be altered or the occupation within the residence be constructed in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or the emission of sounds, noises or vibrations, except that one (1) non-illuminated sign not greater than one (1) square foot in area may be affixed to the residence in which the home occupation is located.
5. Such occupation shall be conducted entirely within the residence and carried on by not more than two (2) individuals (not necessarily related), one of whom is the principal occupant.
6. A home occupation shall not create substantially greater vehicle or pedestrian traffic than normal for the district in which it is located. Nor shall substantially more vehicles be parked on the property or adjacent streets than what would typically be required for the normal use of the residence.
7. No outdoor storage of materials or equipment used in the home occupation shall be permitted.
8. No storage or display of materials, goods, supplies, or equipment related to the operation of a home occupation shall be visible from the outside of the residence.
9. No equipment shall be utilized that creates a nuisance due to odor, vibration, noise, electrical interference or fluctuation in line voltage beyond the property line of the lot upon which the home occupation is conducted.
10. No home occupation shall cause a substantial increase in the use of any one or more utilities (water, sewer, electricity) so that the combined use for the residences and the occupation exceeds the average for residences in the neighborhood.
11. Retail Sales of stocks of merchandise, supplies or products is prohibited. Direct sales from display racks or shelves is prohibited. Sales activities that occur over the phone or other communications device, or that occur off-site, are allowed, provided that orders are delivered off-site, and said goods are not picked up on the site of the home occupation.

7.07.02 Examples of Uses That Frequently Qualify as Home Occupations

The following are typical examples of uses which often can be conducted within the limits established herein and thereby qualify as home occupations. Uses which qualify as home occupations are not limited to those named in this paragraph, nor does this listing of a use in this paragraph automatically qualify it as a home occupation: accountant, architect, artist, attorney, individual tutoring, insurance, one-chair barber shops, two-chair beauty shops.

7.07.03 Home Occupations that Are Prohibited

The uses specified herein (other than personal) shall not be permitted as home occupations: auto repair or service, carpentry work, painting of vehicles or appliance, garage or yard sales exceeding occasional instance per Chapter 32.06 of the Municipal Code, furniture stripping or refinishing, body art establishments or body art (tattooing), Firearm Retailers / Firearm Dealers and other similar uses.

7.08 Antenna and Satellite Dish Regulations (Wireless Communications Ordinance) (1997-067)

7.08.01 Purpose and Intent

It is the intent and purpose of this Section to permit antennas and satellite dishes where they can be installed with minimal visual impact by encouraging co-location and other aesthetic measures, without creating adverse economic or safety impacts and promoting the health, safety and general welfare of the community. Furthermore, it is the intent of this Section to ensure compliance with Federal Communications Commission (FCC) regulations as they relate to the promotion of universal service, competitive contracting by ensuring fairness through the creation of clear and objective approval criteria.

7.08.02 Definitions

For the purpose of this Article, the following definitions apply:

Antenna: A device commonly in the form of a metal rod, wire panel or dish, for transmitting or receiving electromagnetic radiation. For the purposes of this section an antenna includes any supporting tower, pole, mast, or building to which it is affixed.

Co-location: The placement of two or more antenna systems or platforms by separate FCC license holders on the same structure, building, water tank, or utility pole.

Height: The height of an antenna or satellite dish shall be measured vertically from the highest point of the signal receiving/transmitting apparatus, when positioned for operation, to the bottom of the base, which supports the antenna.

Neutral in Color: Light or pastel hues of white, beige, gray or light blue. Dark, bright or brilliant colors (including but not limited to primary colors, neon colors, etc.) are prohibited.

Publicly Owned Property: Property in any district owned, leased, or otherwise controlled by a governmental entity.

Satellite Signal Receiving Antenna (Satellite Dish): A device designed for the purpose of receiving and converting earth orbiting satellite communications signals. It may be a solid, open mesh or bar configured structure typically in the shape of a shallow dish or parabola. Said antenna of this type are hereinafter referred to as "satellite dishes."

Usable Satellite Signal: A satellite signal which, when converted and viewed on a conventional television set is at least equal in picture quality to that received from local commercial television stations or by way of cable television.

7.08.03 Permits Required

1. *Building and Electrical Permit*: Building and electrical permits shall be required prior to the erection of an antenna or satellite dish, except as provided for in paragraph 2 below. The plans and specifications shall meet or exceed the applicable requirements of Chapters 24 and 25, "Building Code" and "Electrical Regulations," of the DeKalb Municipal Code.
2. *Exceptions*: The private use of an antenna or satellite dish for the reception or transmission of radio or television signals, ham radio signals, or citizen band transmissions, of a height no greater than sixty-eight (68) feet are exempt from the requirements of a building permit, engineering report, or special use permit.

7.08.04 General Requirements

1. Federal Communication Commission Compliance: All antennas, towers, and satellite dishes shall comply with all Federal Communication Commission (FCC) requirements.
2. No lot shall have more than (1) antenna, tower, or satellite dish, except for radio or television studios or amateur radio operators licensed by the FCC, in which case the only antennas, towers or satellite dishes allowed shall be those used related to the principal use of the property. Businesses selling satellite dishes shall be allowed a maximum of three (3) satellite dishes located outdoors and only one (1) of these shall be allowed in front of the building.
3. An antenna, tower, or satellite dish shall be located in the side or rear yard. In the situation of a corner lot, the antenna, tower, or satellite dish shall not be closer to the adjoining side street than the principal building.
4. In the event that a usable satellite signal cannot be obtained from the rear yard or side yard of the property, such antenna, tower, or satellite dish may be placed on the roof of a building subject to the approval of the Community Development Director and to the other requirements of this section.
5. Satellite dishes shall not be visible between the ground level and ten (10) feet above ground from any street adjoining the property. Screening used to achieve this requirement shall be in compliance with the Building Code, the provisions of this Ordinance and approved by the Community Development Director.
6. Within residential zoning districts, the diameter of satellite dishes shall not exceed seven (7) feet. The dish and supporting structure shall be neutral in color and shall, as much as possible, blend with the character and appearance of the neighborhood.
7. No antenna or satellite dish shall be used or serve as a sign or bear an advertising emblem other than the name of the manufacturer in letters not to exceed two (2) inches in height.
8. Guy wires (only where necessary) shall not be anchored within any front yard area but may be attached to the building.
9. Whenever an antenna is installed within a distance less than the height of the tower to power or telephone lines, or where damage would be caused by its falling, a separate safety wire must be attached to the antenna or mast or tower and secured in a direction away from the hazard.
10. Antennas, towers, and satellite dishes shall meet and be installed according to all manufacturers' specifications. The mast or tower shall be constructed of non-combustible materials, unless otherwise approved by Underwriters' Laboratories (UL). Brackets, turnbuckles, clips, and similar type equipment shall be protected with materials approved by Underwriters' Laboratories (UL).
11. Antennas, towers, or satellite dishes shall meet the setback requirement for a primary structure for the zoning district in which the facilities are located.

7.08.05 Prohibited Uses

The following uses are prohibited:

1. *Towers or Antennas in Residential Districts:* a tower or antenna used for any commercial or other non-residential purpose, including the placement of other support equipment or buildings, used in connection with the tower or antenna in any residential district, including the "PD-R" Planned Development Residential district.

7.08.06 Permitted Uses

The following uses are permitted:

1. *Co-locating Antennas on City of DeKalb Property:* Antennas on an existing communication tower of any height provided that:
 - a. The additional antennas are cumulatively no more than twenty-two (22) feet higher than the existing tower; and
 - b. The antenna is neutral in color; and
 - c. A qualified engineer submits evidence that the existing structure can adequately support the proposed co-location apparatus.
2. *Co-locating Antennas on City of DeKalb Property:* Antennas on an existing structure other than a tower (such as a building, water tank, sign, utility pole, power pole, or other structure), provided that:
 - a. The additional antennas are cumulatively no more than twenty-two (22) feet higher than the existing structure; and
 - b. The antenna is neutral in color; and
 - c. A qualified engineer submits evidence that the existing structure can adequately support the proposed co-location apparatus.

7.08.07 Special Uses

The following uses may be permitted under the conditions and requirements specified in Article 14, "Permits" in addition to those outlined below:

1. *Co-locating Antennas on Existing Non-Tower Structures or Existing Commercial Towers in Residential Districts:* Antennas on an existing structure (such as a building (excluding dwelling units), water tank, sign, utility pole, or other structure), provided that:
 - a. The additional antennas are cumulatively no more than twenty-two (22) feet higher than the existing structure; and
 - b. The antenna is neutral in color; and
 - c. A qualified engineer submits evidence that the existing structure can adequately support the proposed co-location apparatus.
2. *Towers or Antennas in Commercial or Industrial Zones or on Publicly Owned Property:* Antennas or towers of any height, including the placement of other supporting equipment and accessory buildings. Any equipment shelter shall comply with development standards (i.e., setbacks, height limitations, bulk, etc.) of the property's zoning district classification.
3. *Private Use Antennas, Towers or Dishes Greater than Sixty-Eight (68) feet:* The residential use of an antenna or satellite dish for the reception of radio or television signals, ham radio signals, or citizen band transmissions, in excess of sixty-eight (68) feet in height. These special uses shall meet the requirements of Article 14 (Permits), but will be exempt from the requirements of Article 7.08.08 below.

7.08.08 Application for a Special Use Permit for Antenna Facilities

In addition to the requirements of Article 14 "Permits," the applicant shall be required to submit information that includes, but is not necessarily limited to, how the proposed special use will satisfy the following conditions:

1. *Points of Visual Interest Shall be Protected:* Views from residential structures located within 250 feet of the proposed antenna or tower to the following points of visual interest shall be protected to the greatest practical extent:
 - a. Public Open Spaces;
 - b. Natural Areas as defined on the Development Plan;
 - c. Landmark Structures
2. *Methods for Protecting Points of Visual Interest:* The following standards shall be used to protect the above identified points of visual interest to the greatest practical extent if views from a residential structure located within 250 feet from a proposed antenna or tower to a point of visual interest specifically identified above, are significantly impacted. The applicant shall:
 - a. Examine locations within the same area where such visual impacts can be minimized;
 - b. Investigate alternative tower designs that can be used to minimize the interruptions of views from the residence to the point of visual interest;
 - c. Minimize visual impacts to the point of visual interest referred to above, by demonstrating that co-location or the use of other structures within the service area is not feasible at this time;
 - d. Minimize visual impacts by varying the setbacks or landscape standards that would otherwise be applicable, so long as the overall impact of the proposed development is as good as or better than that which would otherwise be required without said variations.
3. *Color:* Antennas or towers and their support structures, wiring and all related facilities and appurtenances shall be a neutral color that is the same or similar in color as the supporting structure to make the antenna and equipment as visually unobtrusive as possible, unless otherwise specified under Federal Aviation Administration (FAA) standards.
4. *Height:* Antennas or towers shall not exceed the maximum building height plus fifteen (15) feet, in the zoning district in which it is located, applicants who wish to exceed this height shall provide evidence demonstrating the need for exceeding this maximum standard. The Planning and Zoning Commission and City Council shall decide, through the special use permit, if sufficient evidence has been provided to demonstrate the need for the additional height requested.
5. *Setbacks (Adjacent to Residential Uses):* Antennas or towers shall be set back from any existing adjacent residential property line by a distance equal to the height of the tower, unless building plans are submitted demonstrating that the tower will collapse within itself. Such building plans shall be affixed with the seal of a certified structural engineer.
6. *Lighting:* None allowed except as required by the Federal Aviation Administration (FAA).
7. *Fencing and Security:* For security, antennas or towers and ancillary facilities shall be enclosed by a fence not less than six (6) feet in height.
8. *Landscaping and Screening:* Landscaping shall be placed outside the required fence area on sides facing public rights-of-way or residential areas and shall consist of fast growing vegetation with a

minimum planted height of four feet, spaced evenly at intervals equal to twice the expected width of the plant material. Building or tower mounted antenna and related facilities and appurtenances shall be screened by an appropriate material which either: a) matches the building to which it is mounted (in the case of building-mounted structures); or, b) provides an alternate façade that screens the appearance of the facilities and provides a positive appearance/benefit to the public.

9. *Noise*: 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 30dBA when adjacent to residential areas and 45dBA in other areas.
10. *Tower Design*: Towers shall generally be designed without the use of guy wires or external supports. In instances where such a requirement may not be feasible, appropriate documentation shall be provided by the petitioner, demonstrating why such a tower is not feasible. The applicant will offer alternatives to the design so as to minimize the visual impact of the tower.
11. *Co-location Protocol*: Any special use request for the erection of a new tower shall complete the co-location protocol as outlined in Article 7.08.09.

7.08.09 Co-location Protocol

1. Purpose

The purpose of this requirement is to create a process that will allow providers to equitably share publicly available, nonproprietary information among themselves, with interested persons and agencies, and with the City of DeKalb, at the time the provider schedules a pre-application conference with the City of DeKalb. This co-location protocol is designed to increase the likelihood that all reasonable opportunities for co-location have been investigated and that the appropriate information has been shared among the providers.

The City of DeKalb recognizes that co-location is preferable, where technologically feasible and visually desirable, as a matter of public policy, but that co-location of antennas by providers is not always feasible for technical or business reasons. However, if all licensed providers are made aware of any pending tower or antenna permit requests, such disclosure will allow providers to have the maximum amount of time to consider possible co-location opportunities, and will also assure the City that all reasonable accommodations for co-location have been investigated.

2. Pre-Application Requirement

A pre-application conference is required for all proposed support structures.

3. Co-location Request Letter Requirement

At the time of pre-application conference, the applicant shall demonstrate that the following notice was mailed to all other providers rendering service within the City of DeKalb:

“Pursuant to the requirements of Article 7.08.09.03, (applicant) is hereby providing you with notice of our intent to meet with the City of DeKalb in a pre-application conference to discuss the location of a wireless communication facility that would be located at _____
_____. In general, we plan to construct a support structure of _____
_____ feet in height for the purpose of providing (Cellular, PCS, etc.)
Service”

Please inform us whether you have any existing or pending antenna or tower facilities located within _____ feet of the proposed facility that may be available for possible co-location opportunities. Please provide us with this information within ten (10) business days after the date of this letter. Your cooperation is appreciated.

Sincerely, (applicant)"

4. Applicant's Duty to Analyze the Feasibility of Co-location

If a response to a co-location request letter is received by an applicant indicating an opportunity for co-location, the applicant shall analyze the feasibility of co-location. This analysis shall be submitted with an application for any support structure.

The investigation of the feasibility of co-location shall be deemed to have occurred if the applicant submits all of the following information:

- a. A statement from a qualified engineer indicating whether the necessary service can or cannot be provided by co-location at the possible location site;
- b. Evidence that the lessor of the possible co-location site either agrees or disagrees to co-location on their property;
- c. Evidence that adequate access does or does not exist at the possible co-location site to accommodate needed equipment and meets all of the site development standards.
- d. Evidence that adequate access does or does not exist at the possible co-location site.

5. Result of Co-location Feasibility Analysis

If the applicant has provided information addressing each of the criteria in Section 7.08.09.04 above, the co-location protocol shall be deemed complete.

7.08.10 Abandoned Facilities

An antenna or satellite dish which has been discontinued for a period of six consecutive months or longer is hereby declared abandoned. Abandoned facilities shall be removed by the property owner within 90 days of abandonment. Failure to remove an abandoned facility is declared a public nuisance and is subject to penalties as outlined in the DeKalb Municipal Code.

7.09 Air Navigation Space Regulations

All construction, grading, or planting of trees, within the air navigation space of DeKalb Municipal Airport shall conform to the regulations adopted by the City of DeKalb in Chapter 53 of the Municipal Code, as may be amended from time to time.

7.10 Sight Distance Triangle

1. On a corner lot in any district, development shall conform to the requirements of the sight distance triangle in which nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two (2) feet and eight (8) feet above the grades at the back of the curb of the intersecting streets, within the triangular area formed by the right-of-way lines and a line connecting them at points twenty-five (25) feet from their point of intersection or at equivalent points on private streets, except that the sight distance triangle may be increased when deemed necessary for traffic safety by the City Council.
2. On lots located at the intersection of a street and an alley, the two sides of the sight distance triangle may each be reduced to a distance of ten (10) feet.
3. On a lot in a nonresidential zoning district with driveway access to an adjacent public street, development shall conform to the requirements of the sight distance triangle, within the triangular

area formed by the right-of-way line and the driveway curb or equivalent delineation, and a line connecting them at points twenty-five (25) feet from their point of intersection. This sight distance triangle requirement shall apply to both sides of the driveway to the public street. (2006-046)

4. No vehicle shall be parked, nor shall any parking space be provided or designed in the triangular areas described hereinabove.

7.11 Screening of Rubbish, Garbage and Dumpster Facilities

Outside storage of permanent rubbish, garbage and dumpster facilities and their surrounding areas shall be permanently screened from the view of adjacent streets or adjacent properties with a six (6) foot high sight-proof fence, wall or landscaped area placed around said facility. The wall or fence shall substantially conform to the principal building in material, type and design of construction, finish and color.

7.12 Traffic Access and Impact Studies

7.12.01 Purpose and Intent

The regulations provided in this Section are necessary to assist developers, property owners and the City Council in making decisions regarding the traffic and transportation aspects of various land use, subdivision and site plan proposals. These regulations are also necessary to provide the City Council with a basis for estimating street and road improvement requirements attributable to a particular proposal.

7.12.02 Warrants for Studies

1. A traffic access and/or impact study may be required to be prepared or cause to be prepared by any person submitting a rezoning, special use permit, planned development, subdivision, annexation agreement, building permit or occupancy permit application where, in the opinion of the City Engineer, the likely resultant development will generate one hundred (100) or more new peak direction trips to or from the subject property during the adjacent street's peak hours or the development's peak hour. This opinion shall be based on a submittal from the applicant establishing the average trip generation rates published by the Institute of Traffic Engineers (ITE) in their most recent trip generation manual or in any locally published traffic and trip generation data report. (2017-044, 2019-025)

In the event that the estimated trips will fall below the one hundred (100) level, the City Engineer may still require the preparation of a traffic access and/or impact study if, in their opinion: (2017-044, 2019-025)

- a. There exist any current traffic problems in the local area, such as a high accident location, confusing intersection or an intersection in need of a traffic signal;
 - b. The adjacent street system's current or projected level of service will be significantly affected;
 - c. The site's accesses are in such a location that their proximity to other accesses, drives, intersections, etc. will likely cause significant traffic congestion or hazard potential;
 - d. There exists other specific problems, deficiencies, neighborhood sensitivities, etc. that may be affected by the proposed development or affect the ability of the development's traffic to be satisfactorily accommodated.
2. The City Engineer may waive the requirement for a traffic access and/or impact study if, in their opinion, there exists a previously conducted study that adequately addresses the traffic concerns of the area, or there exists adequate physical facilities to accommodate the projected level of traffic. (2017-044, 2019-025)

7.12.03 Procedures

1. The study shall be prepared by any person with demonstrated experience in conducting traffic studies. The study shall be prepared in accordance with the guidelines and recommendations found in the most recent version of the ITE's report entitled, "Traffic Access and Impact Studies for Site Development," or other mutually acceptable report or guideline. (2017-044, 2019-025)
2. The study preparer shall discuss the parameters under which the traffic access or impact study will be conducted with the City Engineer. These parameters include, but are not limited to, the size of the study area, the extent of the study (a full study, partial study, etc.), the level of detailed analysis, various techniques that are to be used, etc. (2017-044, 2019-025)
3. The study shall be submitted along with the documentation required for the rezoning, special use permit, planned development, subdivision, annexation agreement, building permit, or occupancy permit applications. The City Engineer shall review and report on the study and its recommendations within the time period prescribed for reviewing the above-mentioned applications. (2017-044, 2019-025)
4. Where said applications require Planning and Zoning Commission or City Council approval, then the traffic study and recommendations from the City Engineer shall be forwarded to the Planning and Zoning Commission or City Council for their review and concurrences. Where the report's or Staff's recommendation identifies the need for street widening, traffic light improvements, right-of-way increases, etc., then the Planning and Zoning Commission shall recommend and the City Council shall decide whether such widening, improvements, increases, etc. are necessary; and if so, whether the costs associated with them shall be borne solely by the applicant, by the City or by a combination of the applicant and the City. (2019-025)

7.13 Adult Oriented Uses (1997-010)

7.13.01 Purpose and Intent

In the development and execution of this section regulating and limiting the location of adult oriented uses, it is recognized that such uses, by virtue of their nature, have documented objectionable operational characteristics which can have serious deleterious effect upon areas adjacent to such uses. It is the intent of this Section to permit adult oriented uses in areas where they can be constructed and operated without placing undue burden upon the rights of the use(s), while minimizing the potential adverse economic, aesthetic, moral or safety impacts upon the citizens of the City of DeKalb.

It is not the intent of this Article to impose a limitation or restriction on the content of any communicative materials, including those which are adult oriented, nor is it the intent 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 to their intended market. Further, it is not the intent nor effect of this ordinance to condone or legitimize the distribution of obscene materials or acts, nor to authorize any acts of obscenity as defined and otherwise prohibited in Article 52.22 of the Municipal Code.

7.13.02 Restrictions and Limitations

1. Adult Oriented Uses, as defined below, shall only be allowed within the "LC" Light Commercial, "GC" General Commercial, and "PD-C" Planned Development Commercial zoning districts. No adult oriented use shall be allowed in any other zoning district.
2. Adult Oriented Uses which were lawfully established within other zoning districts on or before the effective date of this Ordinance, shall be considered legal, nonconforming uses, and shall be regulated pursuant to the terms of Article 19 of this Ordinance.

3. No Adult Oriented Use, regardless of the zoning classification of subject property, shall be established if the subject property lies within 1,000 feet of a church or other place of worship, public or private elementary or secondary school, or any other Adult Oriented Use. The distances provided for in this section shall be measured by following a straight line, without regard to intervening structures or geographical features, from the nearest portion of the property line of the parcel on which an adult oriented use is established, to the nearest property line of the parcel containing a church, school, or other adult oriented use.

7.13.03 Definitions

For the purposes of this Section, the terms herein shall be defined as follows:

Adult Oriented Use: Any use which is predominately occupied by the sale, rental, lease, inspection, or viewing of media, or the provision of live entertainment, or any combination thereof, which depicts, describes, or characterizes “specified sexual activities” or “specified anatomical areas,” as defined below.

Specified Sexual Activities: Any sexual activity, real or simulated, including but not limited to the following:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus;
3. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

Specified Anatomical Areas: Anatomical areas, real or simulated, including but not limited to the following:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breasts below the point immediately above the top of the areola;
2. Human male genitalia in a discernible turgid state, even if opaquely covered.

7.14 Design Requirements for New Residential Construction (2006-094, 2009-031, 2017-004)

The intent and purpose of this Article is to assure the compatibility of new construction with the character of the City’s residential neighborhoods, in order to protect, preserve and enhance the architectural character, protect and enhance property values, and to promote the health, safety and welfare of the City and its residents.

7.14.01 Applicability

1. These regulations shall apply to all new residential construction in the City of DeKalb, as further outlined below;
2. For lots created on or after January 1, 1990, the terms of the covenants of the subdivision, annexation agreement, Planned Development or other conditions of approval of the subdivision or Planned Development, shall apply. However, the provisions of this Article shall apply to any construction of new principal residential structures occurring after ninety (90) percent or more of the residential lots within that subdivision have been improved; (2017-004)
3. In the case where these provisions conflict with the provisions of existing covenants or terms of approval, the more restrictive shall apply;
4. In the case where these provisions conflict with the provisions of Landmark Commission regulations or other Municipal Code provisions, the more restrictive shall apply. (2017-004)

7.14.02 Provisions

Each proposed new residential principal structure shall be reviewed based upon the ***Design Guidelines & Checklist*** set forth in Appendix 7-A, attached hereto and made a part of this Ordinance, and shall be referred to the Landmark Commission or Community Development Director or designee. (2017-004)

7.14.03 Process

1. All building permit applications for new residential dwellings shall be referred to the Landmark Commission if located in a Historic District, or if the property is a Local Landmark. (2017-004)
2. All building permit applications for new residential dwellings shall be referred to the Community Development Director or designee if not located in a Historic District, or if the property is not a Local Landmark. (2017-004)
3. An applicant shall provide supporting materials as outlined in the Design Review Application Form. (2017-004)
4. The Landmark Commission and Community Development Director or designee shall consider the application and supporting materials based upon the *Design Guidelines & Checklist*. ***A minimum score of seventy-five (75) percent is required in each of the applicable guideline categories for project approval.*** (2017-004)

7.14.04 Powers of the Landmark Commission and Community Development Director or Designee (2017-004)

After review of a proposal, the Landmark Commission and Community Development Director or designee may approve, approve with conditions, or deny an application. Denial of the application shall be based upon the failure of the application to obtain sufficient points on the ***Design Guidelines & Checklist***. (2017-004)

7.14.05 Effect of Denial, Appeal

1. If the permit is denied the applicant may submit a revised plan. In the case of submittal of a revised plan, the procedure shall be the same as a new design review application.
2. In the case that the applicant has been denied, and the applicant disagrees with the ruling of the Landmark Commission and Community Development Director or designee, the applicant may appeal the ruling to the City Council. The City Council shall have the final determination on the proposed residential structure. (2017-004)
3. In the case that a building permit was denied for reasons other than the ruling of the Landmark Commission and Community Development Director or designee, any appeal shall follow the due course set forth in the appropriate code for which the permit was denied. (2017-004)

7.15 Wind Energy Conversion Systems (WECS)

7.15.01 Purpose and Intent

1. This ordinance is intended to promote wind energy use within the City of DeKalb while preserving and protecting the health, safety, and welfare of all property owners and residents.
2. The ordinance shall apply to wind energy conversion systems (WECS) attached to monopoles or directly to roofs or the sides of buildings. The scope of this ordinance includes WECS designed for individual or joint property use, by commercial, industrial, or public entities within the City of DeKalb.

3. Power generated by WECS shall be primarily for use by the property owner and where the systems are located. It is not the intent of this ordinance to promote the operation of WECS in the City of DeKalb for profit by outside utility companies or other third parties. WECS, however, may be connected to the power grid in accordance with applicable rules and regulations.

7.15.02 Definitions

For the purpose of this Article, the following definitions apply:

1. *Wind Energy Conversion System (WECS)*: A mechanical device designed to convert wind energy into usable energy. WECS, as used in this ordinance, consist of wind turbines, support structures, and any associated hardware or other essential components.
2. *Attached Wind Energy Conversion System (AWECS)*: A WECS that is attached to the side of a building or a rooftop.
3. *Wind Energy Conversion System Monopole (WECSM) or Monopole Unit*: A WECS that is freestanding, cylindrical with tapered poles that support a wind turbine.
4. *Wind Turbine*: A wind turbine is a bladed or other type of rotating mechanism that converts wind energy into usable energy (i.e., electrical energy).

7.15.03 Permits

1. *Zoning Permit*: WECS may be allowed as provided in the following zoning districts:

Permit Requirements	ZONING CLASSIFICATION	
	General Commercial (GC) Planned Development Commercial (PD-C) & Public Entities	All Industrial Zoning Districts
Approved by Right	One ten (10) foot maximum height <i>AWECS</i> when combined with building height shall not exceed forty-five (45) feet	One ten (10) foot maximum height <i>AWECS</i> when combined with building height shall not exceed seventy-five (75) feet
Special Use Permit Required	<ul style="list-style-type: none"> • <i>Monopole Unit</i> <ul style="list-style-type: none"> ○ Maximum height: forty-five (45) feet ○ Maximum output: twenty (20) kW • Multiple <i>AWECS</i> • <i>AWECS</i> taller than ten (10) feet <p>Total maximum height of building and AWECS shall not exceed forty-five (45) feet.</p>	<ul style="list-style-type: none"> • <i>Monopole Unit</i>: <ul style="list-style-type: none"> ○ Maximum height: seventy-five (75) feet ○ Maximum output: twenty (20) kW • Multiple <i>AWECS</i> • <i>AWECS</i> taller than ten (10) feet <p>Total maximum height of building and <i>AWECS</i> shall not exceed seventy-five (75) feet.</p>

2. *Special Use Permit for Wind Energy Conversion Systems*

In addition to the requirements of Article 14 “Permits,” the applicant shall be required to submit information that includes, but is not necessarily limited to, how the proposed special use will satisfy the following conditions:

- a. Points of Visual Interest Shall be Protected

Views from residential structures located within two hundred fifty (250) feet of the proposed WECS to the following points of visual interest shall be protected to the greatest practical extent:

- 1) Public Open Spaces;
- 2) Natural Areas as defined on the Development Plan;
- 3) Landmark Structures

b. Methods for Protecting Points of Visual Interest

The following standards shall be used to protect the above identified points of visual interest to the greatest practical extent if views from a residential structure located within two hundred fifty (250) feet from a proposed WECS to a point of visual interest specifically identified above, are significantly impacted. The applicant shall:

- 1) Examine locations within the same area where such visual impacts can be minimized;
- 2) Investigate alternative designs that can be used to minimize the interruptions of views from the residence to the point of visual interest;
- 3) Minimize visual impacts by varying the setbacks or landscape standards that would otherwise be applicable, so long as the overall impact of the proposed development is as good as or better than that which would otherwise be required without said variations.

3. *Building Permits*

Building and electrical permits shall be required prior to the erection of any type of WECS. The plans and specifications shall meet or exceed the applicable requirements of Chapters 24 and 25, "Building Code" and "Electrical Regulations," of the DeKalb Municipal Code.

- a. It shall be unlawful to build, modify, or locate any Wind Energy Conversion System (WECS) within the City of DeKalb without a valid building and electrical permits. The plans and specifications shall meet or exceed the applicable requirements of Chapters 24 and 25, "Building Code" and "Electrical Regulations," of the DeKalb Municipal Code.
- b. Upon application for a permit, the applicant shall provide a proposed site plan, scaled to accurate dimensions, showing the location and height of the proposed system and all structures, including overhead utility lines, within a two hundred (200) foot radius of the site. The applicant shall also provide as applicable:
 - 1) A current copy of the system manufacturer's specifications and warranties;
 - 2) Engineering calculations and drawings;
 - 3) Any other technical documents necessary to substantiate compliance with the requirements of this ordinance;
 - 4) A valid building permit application;
 - 5) A plan for controlling soil erosion and sedimentation during construction, installation, and operation of Monopole Units;
 - 6) A reclamation plan which stipulates how the site of a Monopole Unit will be restored to its natural state after it ceases to be operational.

- c. The safety of the design of WECS shall be certified by a licensed professional engineer experienced in WECS. The standard for certification shall be good engineering practices and shall be in conformance with current Illinois State and City of DeKalb's building and electrical codes.
- d. All WECSs shall be equipped with manual and automatic over-speed controls to limit the rotation of blades to a speed below the designed limits of the conversion system. A licensed professional engineer shall certify that the rotor and over-speed control design and fabrication conform to good engineering practices. No changes or alterations from the certified design shall be permitted unless accompanied by a licensed professional engineer's statement of certification.
- e. All electrical compartments, storage facilities, wire conduits, and interconnections with utility companies shall conform to national, state, county, and local electrical codes. To minimize fire hazards, all electrical wiring on Monopole Units, except as necessary to connect the conversion system to monopole wiring or junction boxes, shall be placed underground.
- f. A visible warning sign stating "High Voltage" shall be placed at the base of Monopole Units. The letters on the sign shall be a minimum of six (6) inches in height.
- g. All Monopole Units shall be designed to prevent climbing by unauthorized individuals. Protection methods may include, but are not limited to, the following:
 - 1) Using open fences with locking portals at least six (6) feet high;
 - 2) Terminating any fixed climbing apparatus at least twelve (12) feet above the ground.
- h. The compatibility of Monopole Units with the rotors and other components of a wind energy conversion system shall be certified by a licensed professional engineer.
- i. The lowest possible point of the blade positioned on Monopole Units shall be at least thirty (30) feet above the ground.
- j. All Monopole Units shall be embedded in an acceptable concrete foundation.
- k. All WECS shall be designed to withstand wind velocities of at least one hundred (100) miles per hour with an impact pressure of forty (40) pounds per square foot.
- l. The maximum permissible height of a wind energy conversion system shall not exceed the maximum height of the zoning district. The height of the unit will be measured from the base to the tip of the highest blade when the blade is perpendicular to the ground. The applicant shall justify his/her height request with documentation on the relationship of the proposed height to the efficiency of the particular system to be used.
- m. The sites of Monopole Units shall be adequately graded to the satisfaction of the City Engineer or his/her designee.

7.15.04 Location

1. All permitted WECS shall be located on a minimum lot size of one (1) acre, set back from property lot lines, non-residential establishments, public right-of-way, or railroad right-of-way a distance of at least two (2) times the height of the system. The WECS shall be setback from overhead utility lines one (1) times the height of the system. Furthermore, all WECS shall be set back 200 ft. from any residential structure.

2. No more than one Monopole Unit shall be allowed on parcels of one (1) acre; no more than two (2) Monopole Units will be allowed on parcels of two to four (2-4) acres; no more than three (3) Monopole Units will be allowed on parcels of five to seven (5-7) acres; no more than four (4) Monopole Units will be allowed on parcels of eight to ten (8-10) acres; and parcels of more than eleven (11) acres may locate up to five (5) Monopole Units. The total number of AWECS units shall occupy no more than twenty-five (25) percent of the horizontal plane of the face of the building to which they are attached.
3. Monopole Units shall be located a minimum of twenty (20) feet from any principal structures on the parcel.
4. Monopole Units shall be separated a minimum distance equal to five (5) rotor diameters, where a rotor diameter is equal to the cross sectional distance of the circle swept by the rotating blades, based upon the size of the largest rotor, from any adjacent wind energy conversion system.
5. No wind-generating device shall be located in front of a building setback line or in front of the principal building on the property.
6. If the wind energy conversion system is located in a parking lot, it must be placed in a landscaped area which is at least 1,000 sq. ft. in size. If there is more than one proposed in a parking lot, a special use permit is required.
7. If the wind energy conversion system is located in a PUD, it must meet the requirements of the approved plan.

7.15.05 Design Standards

1. Colors and surface treatment of WECS and their supporting structures shall be white or earth tone, flat finished (no unfinished, galvanized, plain aluminum, or stainless steel), non-reflective and shall minimize normal visual disruption.
2. WECS shall not use any lights unless required by the Federal Aviation Administration (FAA).
3. Wind turbines shall have a uniform design, layout pattern, color, and blade rotation direction.
4. Removal of trees, other vegetation, or structures on the proposed site that may increase soil erosion or negatively impact the appearance of the site are prohibited without express written permission from the City of DeKalb.

7.15.06 Electromagnetic Interference

1. WECS shall be designed not to cause electromagnetic degradation in performance of other electromagnetic radiators or receptors.
2. All WECS shall utilize nonmetallic rotor blades unless the applicant can supply documentation from an appropriate testing laboratory certifying that any metallic blade rotor proposed to be used will not cause electromagnetic interference.
3. The City of DeKalb reserves the right to revoke a special use permit granting a wind energy conversion system or any permissible wind energy system, and such system will be deemed in violation whenever electromagnetic interference from that system is proven to be evident.

7.15.07 Noise

The noise emanating from any installed WECS or AWECS as measured at any adjacent commercial, industrial, or residential property line shall not exceed a maximum of fifty (50) decibels (dB) at any time.

Noise measurements shall be made in accordance with the City of DeKalb Municipal Code, Chapter 52, "Offenses Against Public Peace - Safety and Morals," subsection 52.35 "Noise Control Regulation."

7.15.08 Maintenance and Access for Inspection

1. All WECS shall be maintained and kept in good working order or shall be removed from the site by the property owner.
2. WECS shall be readily accessible for inspection and maintenance at all times.

7.15.09 Abandoned Systems

1. Any wind energy conversion system that is out of service for a continuous twelve (12) month period shall be deemed abandoned. The City shall issue a Notice of Abandonment to the owner, and the owner shall be responsible for completely removing the system from the property.
2. Within thirty (30) days of a Notice of Abandonment the holder of the permit may request that the City delay its designation of abandonment by submitting satisfactory documentation that the system has not been abandoned along with a date when the system will be fully operational.

7.15.10 Insurance

Applicants for WECS shall demonstrate that they hold adequate liability insurance for their wind energy systems.

7.15.11 Violations

It shall be unlawful for any person to construct, install, or operate WECS that are not in compliance with this ordinance or with any condition contained in a building permit issued pursuant to this ordinance. Systems installed prior to the adoption of this ordinance are exempt.

7.15.12 Penalties

1. Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as stipulated in the zoning code.
2. Nothing in this section shall be construed to prevent the City of DeKalb from using any other lawful means to enforce the provisions of this ordinance.

7.15.13 Severability

The provisions of this ordinance are severable, and the invalidity of any section, subdivision, or paragraph, or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

7.16 Solar Energy Systems (SES) Ordinance

7.16.01 Purpose and Intent

1. This ordinance is intended to promote the safe and efficient construction, installation, and operation of solar energy systems as alternative means of renewable energy production in the City of DeKalb. The ordinance also seeks to protect the health and well-being of those residing or working in close proximity to solar energy systems.

2. This ordinance applies to all newly constructed, installed, substantially modified, or relocated solar energy systems after the effective date of the ordinance. It shall apply to all solar energy systems as defined herein and located in all zoning districts within the City.

7.16.02 Definitions

1. *Solar Energy System (SES):* A *Solar Energy System* is a structure or device designed to collect the sun's radiant energy (solar radiation) for conversion into electrical or thermal energy for practical purposes. Excluded from this definition are passive structures, such as windows or greenhouses; solar farms, which are massive collections of solar systems covering extensive land areas; and public utilities, which are regulated by the State. For the purpose of this ordinance, there are two major types of SESs as defined below.
 - a. *Photovoltaic System (PVS):* A *Photovoltaic System* is one that converts solar radiation into electrical energy using photovoltaic cells.
 - b. *Solar Thermal System (STS):* A *Solar Thermal System* is one that heats water or other liquids directly or indirectly using solar radiation. This type of system is often used for space heating as well as to heat water or generate electricity.
2. *Building-Mounted Solar Energy System (B-M SES):* A *Building-Mounted Solar Energy System* is one that is attached to an existing building or other free-standing structure. This definition includes, but is not limited to, roof-mounted and side-mounted SESs on buildings or other structures as well as those mounted on light poles, towers, etc.
3. *Ground-Mounted Solar Energy System (G-M SES):* A *Ground-Mounted Solar Energy System* is one that is attached to the ground and not affixed to an existing building or other free-standing structure.
4. *Substantially-Modified Solar Energy System:* A *Substantially-Modified Solar Energy System* is one that has been physically modified so that its size, type, or components is different from that of the original system. Replacement of existing equipment with comparable components is not considered substantial modification.

7.16.03 Permits

1. It shall be unlawful to install, substantially modify, relocate, or operate a SES within the City of DeKalb without a valid permit. Permits may be granted in all zoning districts within the City.
2. Upon application for a permit, the applicant shall provide the City with detailed plans for the construction, installation, or operation, or substantial modification or relocation, of the proposed or existing SES. The plans shall clearly show the major components of the system and their intended or existing locations. A sketch detailing all other structures and property lines within a two hundred (200) foot radius of the proposed SES shall also be provided. If the owner/leaseholder of the SES intends to connect the system to a utility's grid, written confirmation and approval from the utility is required.

7.16.04 Design Requirements

1. All solar energy systems used in the City of DeKalb shall be manufactured and designed to comply with applicable industry standards, including the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), and other appropriate certifying organizations. In addition, all SESs shall comply with applicable City codes, including City height and location requirements for buildings or other structures. Where City height or location requirements for buildings or other structures in a given zoning district are more restrictive than those covered in this ordinance, the former requirements shall apply.

2. Solar energy systems shall be constructed, installed, operated, and located to minimize potentially adverse impacts on nearby properties or individuals. A SES shall not present a significant nuisance due to solar glare, bright colors, or protrusion onto another property. Building-mounted systems that blend into the structural design of buildings or other structures and ground-mounted systems that can be partially or completely obscured from outside view (e.g., by use of fencing, trees, or other vegetation) are highly encouraged. Advertising is strictly prohibited on SESs except for unobtrusive manufacturer labeling.

7.16.05 System Height

All SESs shall comply with the applicable height limits shown in Table 1 (hereafter) except as noted in item 1a of this section. Height limits for G-M SESs apply at minimum design tilt.

Table 1: Maximum Height Limits

Type of System / Zoning District		Residential	Commercial	Industrial	Public
Building-mounted	a. Roof-mounted	a. 1 foot above the roof surface of the building	a. 2 feet above the roof surface of the building	a. 3 feet above the roof surface of the building	a. 3 feet above the roof surface of the building
	b. Side-mounted	b. 1 foot above the highest level of the given structure	b. 2 feet above the highest level of the given structure	b. 3 feet above the highest level of the given structure	b. 3 feet above the highest level of the given structure*
Ground-Mounted		10 feet	12 feet	15 feet	15 feet

*SESs mounted on City-owned monopoles or towers may extend to a maximum of 5 feet above the height of the monopole or tower. SESs mounted on non-City-owned monopoles or towers are subject to the height requirements stated in Table 1 except as noted in Section 7.16.04.01

7.16.06 System Location

1. General

- a. Building- and ground-mounted SESs shall be located so as to conform to the design requirements and recommendations outlined in Section 7.16.04.02 of this ordinance.
- b. Ground-mounted SESs shall not be located in wetlands or habitats of protected species of animals or plants. In addition, G-M SESs shall minimize local water retention by restricting impervious surfaces to the foundations anchoring the systems to the ground and by maintaining grass or other suitable penetrable media below all elevated components so as to permit adequate infiltration and percolation of precipitation into the ground.

2. Setbacks

- a. *Building-Mounted Solar Energy Systems.* In addition to required building or other structure setbacks, roof-mounted systems shall not extend beyond the exterior perimeter of the building or other structure. External piping for solar hot water systems may be allowed to extend beyond the perimeter of the building or other structure on a side yard exposure. Side-mounted systems shall be allowed to extend beyond the perimeter of the building or other structure as long as the system components are within applicable building or other structure setbacks for the given zoning district.
- b. *Ground-Mounted Solar Energy Systems.* Ground-mounted SESs shall be set back a distance equal to one (1) times the maximum height of the system when oriented at minimum design tilt

or a minimum of six (6) feet, whichever is greater. Setbacks shall be measured as the distance from the outer edge of the system to the adjacent property line. Ground-mounted systems in residential and commercial zoning districts shall not extend into front or side yards. All exterior electrical and plumbing lines shall be buried below ground and placed in suitable conduits or otherwise protected from the elements.

7.16.07 Safety

1. The installation of a SES shall be conducted by a qualified installer.
2. All electrical and plumbing connections in a SES shall comply with applicable City and State codes.
3. Building-mounted SESs shall meet all applicable fire prevention and building code requirements. In addition, all solar-related conduits, electrical panels, and disconnects on B-M SESs shall be easily identifiable by fire protection personnel.
4. Where storage batteries or electrical transformers are employed as part of a SES, they shall be clearly labeled with warnings and securely enclosed or otherwise contained so as to minimize potential electrical shock, fire, or explosion.

7.16.08 Abandonment and Removal

1. If the City receives a complaint regarding an apparent non-functioning SES, it shall inspect that system. If the inspection reveals that the SES is not in good working order and has been so for a continuous period of 12 months, the system shall be considered abandoned. The City may issue a Notice of Abandonment to the permit holder where the system is located, and the permit holder shall be responsible for having the system completely removed from the property within six (6) months.
2. Within 30 days of a Notice of Abandonment the permit holder may request that the City delay its designation of abandonment by submitting satisfactory documentation that the system has not been abandoned, as defined in this ordinance, along with a specific date by which the system will be fully operational and in good working order. If the request is satisfactory upon examination of the supporting documents and an onsite inspection, the Notice of Abandonment shall be rescinded by the City.
3. At least 30 days prior to commencing removal of a SES, a plan indicating how the system will be removed shall be submitted to the appropriate City office by the permit holder. Removal of a SES shall be complete, including all system components together with integral electrical and plumbing parts, and shall be conducted so as to comply with all applicable safety and building codes or regulations. The site shall be restored to its original condition.

7.16.09 Restrictions

The installation, operation, or substantial modification of SESs shall not be unduly limited by homeowners' agreements, covenants, or other contracts among dual or multiple party owners in any subdivision of the City to a greater extent than the requirements contained in this ordinance.

7.16.10 Solar Easements

The right of a property owner in the City of DeKalb to create a legal agreement with one or more neighboring property owners so as to protect access to direct sunlight essential to the effective operation of a solar energy system shall not be restricted. Solar easements shall be entered into and filed in accordance with applicable State and local laws.

7.16.11 Violations

It shall be unlawful for any person or entity to construct, install, operate, or substantially modify a SES that is not in compliance with the provisions of this ordinance or with any condition contained in a permit issued pursuant to this ordinance. Solar energy systems installed prior to the effective date of this ordinance are exempt except when substantially modified.

7.16.12 Penalties

Anyone who fails to comply with any applicable provision of this ordinance or a permit issued pursuant to this ordinance shall be subject to enforcement and penalties as stipulated in the City's zoning code.

7.16.13 Waivers

Upon written request, the City of DeKalb may issue a waiver for a specific requirement of this ordinance provided the waiver does not present an undue burden on adjacent property owners. Waivers shall not be granted without an open hearing that takes into account the support or opposition of those affected by the ruling. A special permit shall be required for a waiver.

7.16.14 Severability

The provisions of this ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

7.17 Retail Sale of Tobacco and Related Products

7.17.01 Purpose and Intent

1. This Ordinance is intended to protect the public health, safety, welfare and morals by establishing regulations to restrict the location of and/or create a setback between establishments which primarily engage in the retail sale of tobacco or similar products, and incompatible uses.
2. This Ordinance shall apply to any Retail Tobacco Store as defined in Chapter 64 of the City Code of Ordinances. The Definition of a Retail Tobacco Store, for purposes of this Ordinance, shall be as follows:

“Retail Tobacco Store” means a retail store (or a divisible portion of a facility which is capable of being separated by virtue of walls, doors, partitions or other full or partial enclosures, which store or portion thereof satisfies the other requirements herein) which derives more than thirty (30) percent of its gross revenue from the sale of tobacco or nicotine products and accessories, inclusive of any device contemplated within the definition of “Smoking” below, or which dedicates more than twenty-five (25) percent of its total floor area or public display area to the storage or sale of such items.

“Smoking” means a) inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any manner or in any form; b) inhaling or exhaling from, turning on, powering, ingesting or utilizing in any form any device intended for the atomization, charring, burning, piezoelectronic ignition of or ingestion of tobacco products or nicotine in any gaseous, smoke, aerosol, vaporous or other similar form, including but not limited to the use of any e-cigarette, personal vaporizer used with nicotine or tobacco derivatives, electronic nicotine delivery system, e-puffer, cartomizer or other similar device; c) use of any other device intended for the gaseous, smoke, aerosol, vaporous or other similar airborne ingestion of tobacco, tobacco derivatives, nicotine, or nicotine derivatives; or d) completing any of the foregoing actions utilizing any form of smoked, aerosolized, ionized, vaporous or similar airborne ingestion of marijuana, cannabis or any derivative

thereof. Smoking shall not include non-airborne forms of tobacco, nicotine or medical cannabis ingestion such as use of chewing tobacco or use of nicotine patches.

7.17.02 Permitted Zoning Districts and Setback Requirements

1. Retail Tobacco Stores shall be a prohibited use in all zoning districts unless expressly permitted herein.
2. Retail Tobacco Stores shall be a special use in the following zoning districts: CBD, LC, GC, ORI, LI, HI.
3. No Retail Tobacco Store shall be located within two hundred (200) feet of the boundary of any residentially zoned property or a parcel occupied by a: i) public or private kindergarten, elementary, middle, junior high or high school;
4. No Retail Tobacco Store shall be located within two hundred (200) feet of the boundary of any other Retail Tobacco Store, whether operating as a permitted, special, or legally non-conforming use.
5. Any violation of applicable building codes or fire life-safety codes or City-imposed inspection requirements shall constitute a violation of any zoning permission or special use permit granted hereunder. Upon a finding that an approved Special Use Permit will or has become unsuitable and/or incompatible in its location as a result of any nuisance or activity generated by the use, the Council shall have the authority to revoke the permit after affording the current property owner the right to be heard.
6. Any violation of applicable building codes or fire life-safety codes or City-imposed inspection requirements shall constitute a violation of any zoning permission or special use permit granted hereunder. Upon a finding that an approved Special Use Permit will or has become unsuitable and/or incompatible in its location as a result of any nuisance or activity generated by the use, the Council shall have the authority to revoke the permit after affording the current property owner the right to be heard through due process or a public hearing with a due process hearing afforded.

7.17.03 Development Review Standards

1. Any party seeking to open a Retail Tobacco Store shall be required to file all documents which would be required to demonstrate compliance with the terms of this Code, and any documents required to apply for and obtain a review of a proposed special use permit.
2. After a pre-application meeting with the Community Development Director or their designee, an applicant for a Special use shall be required to submit plans and documents as deemed necessary, including, but not limited to, a Plat of Survey, a Site Plan, Engineering Plan, Architectural Plans and Elevations, Building Material Samples, Lighting Plan, Signage Plan, Business and Operational Plan, and Security Plan. Given the unique challenges and public safety threats posed by this use, the applicant shall also be required to file such additional documentation and provide such additional information as may be required by the City Manager, Community Development Director, Chief of Police, or Fire Chief or their designees.

7.18 Cannabis Business Establishment

7.18.01 Purpose and Intent

1. This Ordinance is intended to protect the public health, safety and welfare by establishing regulations to restrict the location of and/or create a setback between establishments which primarily engage in the businesses relating to medical cannabis, and incompatible uses.

2. The zoning contemplated herein shall only apply to businesses a cannabis business establishment duly licensed and operating under State law.
3. The following definitions shall apply:

“Adult-use Cannabis Craft Grower” means a facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Cannabis Regulation and Tax Act, 410ILCS 705/1, *et seq.*, as it may be amended from time-to-time, and regulations promulgated thereunder.

“Adult-use Cannabis Cultivation Center” means a facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Cannabis Regulation and Tax Act, 410 ILCS 705/1, *et seq.*, as it may be amended from time-to-time, and regulations promulgated thereunder.

“Adult-use Cannabis Dispensing Organization” means a facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers, per the Cannabis Regulation and Tax Act, 410 ILCS 705/1, *et seq.*, as it may be amended from time-to-time, and regulations promulgated thereunder.

“Adult-use Cannabis Infuser Organization” or *“Infuser”* means a facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act, 410 ILCS 705/1, *et seq.*, as it may be amended from time-to-time, and regulations promulgated thereunder.

“Adult-use Cannabis Processing Organization” or *“Processor”* means a facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act, 410 ILCS 705/1, *et seq.*, as it may be amended from time-to-time, and regulations promulgated thereunder.

“Adult-use Cannabis Transporting Organization” or *“Transporter”* means an organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program, per the Cannabis Regulation and Tax Act, 410 ILCS 705/1, *et seq.*, as it may be amended from time-to-time, and regulations promulgated thereunder.

“Cannabis Business Establishment” means an adult-use cannabis dispensing organization and a medical cannabis dispensing organization.

“Cannabis” means marijuana, hashish, and other substances that are identified as including any parts of the plant *Cannabis sativa* and including derivatives or subspecies, such as indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction; however, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination.

"Cannabis" does not include industrial hemp as defined and authorized under the Industrial Hemp Act. "Cannabis" also means concentrate and cannabis-infused products.

"Medical Cannabis Dispensing Organization" means a facility operated by an organization or business that is registered by the Illinois Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients, individuals with a provisional registration for qualifying patient cardholder status, or an Opioid Alternative Pilot Program participant, per the Compassionate Use of Medical Cannabis Act, 410 ILCS 130/1, *et seq.*, as it may be amended from time-to-time, and regulations promulgated thereunder.

"Medical Cannabis Cultivation Center" means a facility operated by an organization or business that is registered by the Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis.

"Enclosed, locked facility" room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access only by agents of a licensed cannabis business establishment and acting pursuant to State law.

"State law governing statute" means the Cannabis Regulation and Tax Act, 410 ILCS 705/1, *et seq.*, and the Compassionate Use of Medical Cannabis Act, 410 ILCS 130/1, *et seq.*, as they may be amended from time-to-time, and regulations promulgated thereunder.

7.18.02 Compliance with Applicable Laws

A cannabis business establishment shall be required to comply with all applicable laws, ordinances, regulations, statutes or other regulatory authority applicable thereto, including but not limited to, State law and the City of DeKalb Municipal Code. Violation of any applicable law, regulation, or ordinance shall constitute a public nuisance and violation of any zoning authority or special use permit granted hereunder.

7.18.03 Submittal Requirements

After a pre-application meeting with the City, an applicant for any special use or other zoning approval required herein for a cannabis business establishment shall be required to submit plans and documents as deemed necessary by the City, including, but not limited to, a Plat of Survey, a Site Plan, Engineering Plan, Architectural Plans and Elevations, Building Material Samples, Lighting Plan, Signage Plan, Business and Operational Plan, Compliance with State law, Anticipated Parking and Traffic Plan, Impact on Surrounding Areas, and Security Plan.

7.18.04 Permitted Zoning Districts and Setback Requirements

1. A cannabis business establishment shall be permitted only as a special use in the following zoning districts: LC, GC, and LI.
2. A cannabis business establishment may not be located within 250 feet of the property line of a preexisting property zoned or used for residential purposes that contains a residential dwelling unit, nursery school, preschool, primary or secondary school, daycare center, daycare home, residential home, and an academic building or residence hall of a State university.
3. An adult-use cannabis dispensary organization may not be located within 1,500 feet of the property line of a pre-existing adult-use cannabis dispensary organization.
4. A cannabis business establishment shall comply with the setback requirements and standards of the underlying zoning district, except as may be otherwise provided by this Section and the UDO.

7.18.05 Parking Requirements

1. A cannabis business establishment shall be required to comply with the parking requirements applicable to the facility under the provisions of this UDO (e.g. a dispensary shall comply with the parking requirements applicable to a Commercial Service Facility and Retail.
2. Parking shall be located in an area which is visible from a public road.
3. Parking areas shall be well lit and monitored by video surveillance equipment with live images that can be viewed by agents of the cannabis business establishment.

7.18.06 Exterior Display, Signage and Advertising

1. No cannabis business establishment shall be maintained or operated in a manner that causes, creates or allows the public viewing of cannabis, cannabis paraphernalia or similar products from any sidewalk, right-of-way or any property other than the lot on which the cannabis business establishment is located. No portion of the exterior of the cannabis business establishment shall use or contain any flashing lights, search lights, spotlights or any similar lighting system.
2. Signage shall comply with the standards of the underlying zoning district.
3. No cannabis business establishment shall have signage or engage in advertising that is not in compliance with State law, including but not limited to 410 ILCS 705/5520, which is adopted and incorporated herein by reference as if fully set forth herein.
4. A sign shall be posted in a conspicuous place at or near all dispensary entrances and shall include the following language: "Persons under the age of 21 are prohibited from entering." The required text shall be no smaller than 1 inch in height nor greater than 12 inches in height.

7.18.07 Other Development Restrictions

1. No more than five (5) special use permits for an adult-use cannabis dispensing organization shall be permitted within the City's corporate limits.
2. The terms and conditions for the location of a cannabis dispensary pursuant to a special use shall not be applicable to other types of cannabis businesses, including but not limited to, Adult-Use Cannabis Craft Growers, Adult-Use/medical Cannabis Cultivation Centers, Adult-Use Cannabis Infuser Uses, Adult-Use Cannabis Processing Uses, or Adult-Use Cannabis Transportation Uses unless otherwise approved by a subsequent amendment. Any type of cannabis business other than a cannabis dispensary that wishes to locate in DeKalb may propose a text amendment to the City's Unified Development Ordinance as part of a zoning application that is in compliance with all State of Illinois statutes and regulations for legislative consideration and evaluation by the Planning and Zoning Commission and the City Council.
3. No cannabis business establishment shall allow any person who is not at least twenty-one (21) years of age on the premises. No cannabis business establishment shall employ anyone under the age of twenty-one (21).
4. A cannabis business establishment may operate between the hours of 6:00 a.m. to 10:00 p.m.
5. No cannabis business establishment shall have a drive-through service, drive-thru window, or any form of outdoor sales.

6. A cannabis business establishment shall maintain compliance with State law and local building, fire, and zoning requirements or regulations.
7. No adult-use cannabis dispensing organization shall operate in violation of the operational requirements and prohibitions set forth in 410 ILCS 705/15-70, which are adopted and incorporated herein by reference as if fully set forth herein.
8. No medical cannabis dispensing organization shall operate in violation of the requirements and prohibitions set forth in 410 ILCS 130/130, which are adopted and incorporated herein by reference as if fully set forth herein.
9. A cannabis business establishment shall provide to the City a security plan that includes, but is not limited to, the following:
 - a. The cannabis business establishment shall be an enclosed, locked facility and shall provide and maintain adequate security on the premises, including lighting, video surveillance and alarms reasonably designed to ensure the safety of persons and to protect the premises from theft;
 - b. The parking area, client entrance, sales area, back room, storage areas and delivery bay and entrance shall be monitored by video surveillance equipment with live images that can be viewed by agents of the cannabis business establishment, continually recorded in a tamper proof format;
 - c. A sign shall be posted in a prominent location which includes the following language "This area is under live/recorded video surveillance to aid in the prosecution of any crimes committed against this facility or its patrons";
 - d. Reporting of criminal activity on the licensed premises to local law enforcement officials; and
 - e. The Chief of Police or designee shall review and approve the adequacy of lighting, security and video surveillance prior to the issuance of a Conditional/Special Use Permit ;
10. Loitering is prohibited on a medical cannabis facility property.
11. No cannabis business establishment shall allow any person to smoke, inhale or consume cannabis on the property and the licenses premises occupied by the cannabis business establishment. A sign, at least 8.5 by 11 inches, shall be posted inside the cannabis business establishment building in a conspicuous place and visible to employees and clients and shall include the following language: "Smoking, eating, drinking or other forms of consumption of cannabis products on the property is prohibited.

7.19 Retail Sale of Firearms

7.19.01 Purpose and Intent

1. This Ordinance is intended to protect the public health, safety and welfare by establishing regulations to restrict the location of and/or create a setback between establishments which engage in the retail sale of firearms or related products, and incompatible uses.
2. The following definitions shall apply:

"Firearm" means any device which is either: a) defined as a firearm under applicable state or federal law; or, b) a device from which a projectile is discharged through the use of an explosive charge or propellant including but not limited to gunpowder.

“Firearm Ammunition” means any device which: a) consists of a complete cartridge, shell or round, ready for discharge in a firearm; b) is a component part of a cartridge, shell or round that can be assembled with other component parts to form a complete cartridge or round (e.g. bullet, primer, casing, propellant). For purposes of this Ordinance, propellant shall only be considered to be Firearm Ammunition where it is in a format ready to be directly utilized in a firearm cartridge, shell or round (e.g. smokeless powder in a format ready to be utilized).

“Firearm Dealer” means any person engaged in the business of selling, transferring, leasing, repairing, or advertising for sale, transfer or lease, or offering or exposing for sale, transfer, or lease any firearm with the exception of a Bureau of Alcohol, Tobacco, and Firearms Federal Firearms License of Type -3 (collectors of curious and relics).

“Firing Range” means any area intended for and/or designed for the discharge of firearms, typically for target practice. For purposes of this Ordinance, a Firing Range shall not include any facility owned or operated by a unit of local government, the State of Illinois, or the Federal Government (or a component thereof).

“Indoor Firing Range” shall mean a Firing Range within a fully enclosed structure.

“Outdoor Firing Range” shall mean any Firing Range other than an Indoor Firing Range.

“Firearm Retailer” shall mean an establishment having at least 25 percent of its gross floor area used for the sale of Firearms or Firearm Ammunition, regardless of the type or number of Firearms or Firearm Ammunition sold. Firearm Retailer shall not include a business which engages in the manufacture or wholesale distribution of Firearms or Firearm Ammunition.

7.19.02 Compliance with Applicable Laws

Any facility authorized hereunder shall be required to comply with all applicable laws, ordinances, regulations, statutes or other regulatory authority applicable thereto, including but not limited to the State governing statute. Violation of any applicable law or regulation shall constitute a violation of any zoning authority or special use permit granted hereunder.

7.19.03 Submittal Requirements

After a pre-application meeting with the Community Development Director or their designee, an applicant for a Special use shall be required to submit plans and documents as deemed necessary, including, but not limited to, a Plat of Survey, a Site Plan, Engineering Plan, Architectural Plans and Elevations, Building Material Samples, Lighting Plan, Signage Plan, Business and Operational Plan, and Security Plan. Given the unique challenges and public safety threats posed by this use, the applicant shall also be required to file such additional documentation and provide such additional information as may be required by the City Manager, Community Development Director, Chief of Police, or Fire Chief.

7.19.04 Permitted Zoning Districts and Setback Requirements: Firearm Retailer

1. Firearm Retailers / Firearm Dealers shall be prohibited as a home occupation.
2. Firearm Retailers with a size of 50,000 square feet or more shall constitute a Special Use within the CBD, GC, PD-C, ORI, LI, HI, and PD-I zoning districts, and a prohibited use in all other zoning districts.
3. Firearm Retailers with a size of 50,000 square feet or less shall constitute a Special Use within the GC, LI, HI and PD-I zoning districts, and a prohibited use in all other zoning districts.

4. Firearm Retailers shall have no specific additional setback requirements applicable to their operations.

7.19.05 Permitted Zoning Districts and Setback Requirements: Firing Range

1. Outdoor Firing Ranges shall be a special use in an HI zoning district, and a prohibited use in all other zoning districts.
 - a. Outdoor Firing Ranges shall have a minimum setback of 5,000 feet from any residential use or any hospital, medical facility or doctor's office, church, park or playground available for public use, golf course, public or private preschool or elementary or secondary school or college/university or day care center, day care home, group day care home, or part day child care facility, place of religious worship, cemetery, public or private park, or forest preserve.
 - b. To process a special use application for an Outdoor Firing Range, the applicant at their own cost shall be required to provide notice to all property owners of record within one mile of the lot line (in any direction) of the parcel proposed for such use via US Mail, certified, return receipt requested. Any applicable provisions of this UDO which contemplate a shorter distance for notification shall be expressly superseded by this requirement.
2. Indoor Firing Ranges shall be a special use in an HI, LI or PD-I zoning district and a prohibited use in all other zoning districts.
 - a. Indoor Firing Ranges shall have a minimum setback of 250 feet from any residential use or any hospital, medical facility or doctor's office, church, park or playground available for public use, golf course, public or private preschool or elementary or secondary school or college/university or day care center, day care home, group day care home, or part day child care facility, place of religious worship, cemetery, public or private park, or forest preserve.
 - b. To process a special use application for an Indoor Firing Range, the applicant at their expense shall be required to provide notice to all property owners of record within one thousand feet of the lot line (in any direction) of the parcel proposed for such use via US Mail, certified, return receipt requested. Any applicable provisions of this UDO which contemplate a shorter distance for notification shall be expressly superseded by this requirement.

7.19.06 Exterior Display, Signage and Advertising

1. No Firearm Retailer or Firing Range shall be maintained or operated in a manner that causes, creates or allows the public viewing of Firearms, Firearm Ammunition or similar products from any sidewalk, public or private right-of-way or any property other than the lot on which the dispensary is located. No portion of the exterior of the dispensary shall utilize or contain any flashing lights, search lights or spot lights or any similar lighting system.
2. Message boards (electronic or manual changeable copy), moving signs and temporary signs (whether or not electric) are prohibited. Handheld signs are also prohibited.
3. Signage shall not contain firearm imagery such as pictures of firearms or firearm ammunition, accessories relating to firearms or firearm ammunition, or cartoonish imagery oriented towards youth.

7.19.07 Other Development Restrictions

1. Hours of Operation for a Firing Range
 - a. Indoor Range shall operate from 6 am to 10 pm.

- b. Outdoor range shall operate only between 8 am and 6 pm.
2. A Firing Range shall comply with all applicable noise, environmental pollution, or other applicable standards imposed under the terms of any City Code or Ordinance, or any applicable federal, state or local regulation.
3. A Firearm Retailer shall not have a drive-through service, drive-thru window, or any form of outdoor sales. A Firearm Retailer shall require any sales to be conducted indoors, with customers exiting their parked vehicles and entering the store.
4. A Firearm Retailer shall provide to the City a security plan that at a minimum provides that:
 - a. The Firearm Retailer shall be an enclosed locked facility and shall provide and maintain adequate security on the premises, including lighting, video surveillance and alarms reasonably designed to ensure the safety of persons and to protect the premises from theft;
 - b. The parking area, client entrance, sales area, back room, storage areas and delivery bay and entrance shall be monitored by video surveillance equipment whose live images can be viewed by staff, continually recorded in a tamper proof format;
 - c. A sign shall be posted in a prominent location which includes the following language "This area is under live/recorded video surveillance to aid in the prosecution of any crimes committed against this facility or its patrons.";
 - d. The Chief of Police shall review and approve prior to the issuance of a Conditional/Special Use Permit the adequacy of lighting, security and video surveillance installations, and to review the adequacy of security measures designed to ensure compliance with applicable laws relating to the sale or distribution of Firearms or Firearms Ammunition; any Special Use Permit issued shall require the update of this plan not less than every three years;
 - e. A Firearm Retailer shall report all criminal activities to local law enforcement officials immediately upon discovery; and,
 - f. Deliveries shall occur during normal business hours within a secure delivery bay.
5. A Firearm Retailer that co-locates with a Firing Range shall be required to comply with the more restrictive standards applicable to either use.
6. A Firing Range shall at all times comply with or exceed the then current design standards applicable thereto, including any environmental protection regulations regarding air quality, noise pollution or other forms of pollution, and including the then-current Department of Energy standards for the design and construction of firing ranges.
7. No person under the minimum age to purchase a Firearm in the State of Illinois shall be allowed on premises at a Firearm Retailer or Firing Range unless accompanied by a parent, legal guardian or licensed supervisor and/or instructor.

7.20 Video Gaming Establishments (2017-009)

7.20.01 Distance Separation Requirements

A Video Gaming Establishment as defined in Article 3 of this Ordinance, shall not be located within 500 feet of another Video Gaming Establishment. This distance separation requirement shall be measured in a straight line from the nearest corner of a space containing a Video Gaming Establishment to the nearest space containing a Video Gaming Establishment.

Existing Video Gaming Establishments, as defined in Article 3 of this Ordinance, which do not meet the distance separation requirements listed in Article 7.20.01 (1) on the effective date of this Ordinance may continue to operate and have their annual Video Gaming License renewed, provided they meet the requirements of Chapter 38 “Intoxicating Liquors” of the Municipal Code, and Article 19 “Non-Conforming Situations” of this Ordinance. A change in ownership or tenancy of a non-conforming Video Gaming Establishment, as determined by Article 19 of this Ordinance, does not require the discontinuance of the use.

7.20.02 Planned Development Districts

Video Gaming Establishments proposed to be located in Planned Development Districts established prior to the adoption of this Ordinance shall be categorized as a “bar” or “tavern” for purposes of determining if they are a permitted use, special use or prohibited use. The distance separation requirement described in Article 7.20.01 of this Ordinance still applies.

7.21 Self-Service Storage Facilities (2018-008)

7.21.01 Building Requirements

“Self-Service Storage Facility, Interior Unit Access” facilities in the “LC” Light Commercial and “GC” General Commercial Districts shall only be allowed with a special use permit and located in an existing building or buildings and not in a newly constructed building or buildings.

7.21.02 Additional Special Use Requirements for the “LC” Light Commercial, “GC” General commercial, “LI” Light Industrial, and “HI” Heavy Industrial Districts

The applicant must also submit information that includes, when applicable, how the proposed special use will address the following physical characteristics as they relate to the standards for a special use in Article 14.03:

- Access/Traffic circulation,
- Hours of operation,
- Accessory uses such as retail sales of packing or mailing supplies,
- Fencing,
- Lighting,
- Architectural elevations,
- Screening,
- Security cameras,
- Dumpsters and enclosures,
- Parking, and
- Outdoor storage.

7.21.03 Additional Special Use Requirements for the “LC” Light Commercial and “GC” General Commercial Districts

In addition to the requirements of Article 14.03, the applicant for a special use request for a “Self-Service Storage Facility, Interior Unit Access” in the “LC” Light Commercial or “GC” General Commercial District shall provide a floor plan indicating how the storage units are divided including square footages. The applicant shall also be required to show how the property or tenant space has become obsolete for retail uses to warrant the special use permit. To determine obsolescence, the following three factors shall be used:

- Physical obsolescence – Physical structure itself has deteriorated;
- Functional obsolescence – Property or tenant space is no longer able to function in the way it was originally intended; and

- Economic obsolescence – Outside forces have negatively affected the commercial real estate property value.