

L M T
Zoning Code
Γ W L

ARTICLE 10 DRAFT
JUNE 28, 2019

ARTICLE 10:
SUPPLEMENTAL USE
REGULATIONS AND
NONCONFORMITIES

155-10.1 ~~SUPPLEMENTAL~~ ACCESSORY USE REGULATIONS10.1.1 Home occupations

- 10.1.1.a. The following restrictions apply specifically to non-traffic or minor home occupations:
- 10.1.1.a.i. No commercial traffic visits shall be permitted for non-traffic home occupations.
- 10.1.1.a.ii. Minor home occupations are only permitted subject to the following restrictions:
- 10.1.1.a.ii.(1). No more than one Commercial Traffic Visit per hour and a maximum of four commercial visits per day is permitted.
- 10.1.1.a.ii.(2). All visits shall be between the hours of 9 AM and 9 PM.
- 10.1.1.a.ii.(3). In all LDR and MDR zoning districts, a separation requirement of 500 feet from any other home occupation (except for nontraffic home occupations) shall apply. This may be modified by Special Exception, if the applicant establishes that the use is located in a neighborhood which is not primarily residential in character or the use will not have a substantial tendency to commercialize the neighborhood.
- 10.1.1.b. 10.1.2.a. Home occupations (minor and non-traffic) in LDR and MDR1 zoning districts are permitted subject to the following additional restrictions:
- 10.1.1.b.i. No person except a resident practitioner (or employee which the practitioner is required by law to have on the premises) shall work on the premises in connection with the use.
- 10.1.1.b.i.(1). Home occupations shall be entirely conducted within a building and shall not occupy more than 500 square feet of floor area or up to 25% of the home, whichever is greater.
- 10.1.1.b.i.(2). No goods shall be publicly displayed on the premises.
- 10.1.1.b.i.(3). No outside storage of materials or equipment is permitted, except that one business vehicle may be maintained on the property if parked off street and behind the required front yard setback.
- 10.1.1.b.i.(4). The existence of the use shall not be visible from the exterior of the property.
- 10.1.1.b.i.(5). No sign may be displayed, except that a minor home occupation sign may be provided as described in "Article 9: Sign Standards".
- 10.1.1.b.i.(6). A certificate of occupancy shall be obtained authorizing the home occupation.
- 10.1.1.b.ii. Home Occupations (Minor and Non traffic) in MDR2, MDR3 , VC, TC, and Special Districts are permitted subject to the following additional restrictions:
- 10.1.1.b.ii.(1). In multi-family buildings, the home occupation shall only be located in the user's apartment.
- 10.1.1.b.ii.(2). The home occupation shall not occupy more than 50% of the floor area of the apartment.
- 10.1.1.b.ii.(3). In the MDR2 and MDR3, a home occupation, except a non-traffic home occupation, shall be located on the first floor.
- 10.1.1.b.ii.(4). Lobbies shall not be used as waiting rooms.
- 10.1.1.b.ii.(5). A certificate of occupancy shall be obtained authorizing the home occupation.
- ~~10.1.1.a. Home occupations in LDR and MDR1 zoning districts are permitted subject to the following restrictions regulations:~~
- ~~10.1.1.a.i. No person except a resident practitioner (or employee which the practitioner is required by law to have on the premises) shall work on the premises in connection with the use.~~

- ~~10.1.1.a.ii. Home occupations shall be entirely conducted within a building and shall not occupy more than 500 square feet of floor area or up to 25% of the home, whichever is greater.~~
- ~~10.1.1.a.iii. No goods shall be publicly displayed on the premises.~~
- ~~10.1.1.a.iv. No outside storage of materials or equipment is permitted, except that one business vehicle may be maintained on the property if parked off street and behind the required front yard setback.~~
- ~~10.1.1.a.v. The existence of the use shall not be visible from the exterior of the property. No sign may be displayed, except that a minor home occupation may be provided as described in "Article 9: Sign Standards".~~
- ~~10.1.1.a.vi. A certificate of occupancy shall be obtained authorizing the home occupation.~~
- ~~10.1.1.b. Home Occupations in MDR2, MDR3, VC, TC, and Special Districts are permitted subject to the following restrictions regulations:~~
 - ~~10.1.1.b.i. In multi-family buildings, the home occupation shall only be located in the user's apartment.~~
 - ~~10.1.1.b.ii. The home occupation shall not occupy more than 50% of the floor area of the apartment.~~
 - ~~10.1.1.b.iii. In the MDR2 and MDR3 home occupation, except a non-traffic home occupation, shall be located on the first floor.~~
 - ~~10.1.1.b.iv. Lobbies shall not be used as waiting rooms.~~
 - ~~10.1.1.b.v. A certificate of occupancy shall be obtained authorizing the home occupation.~~

10.1.2 Family Day Care

- 10.1.2.a. Family day care, for up to six nonresident children (excluding the caretaker's children), is permitted in LDR and MDR zoning districts as follows:
 - 10.1.2.a.i. Shall be located in a single-family, detached dwelling in which the caregiver resides.
 - 10.1.2.a.ii. No person except the resident caregiver and/or an employee required by law, shall work on the premises in connection with the use.
 - 10.1.2.a.iii. Minimum lot area of 10,000 square feet is required.
 - 10.1.2.a.iv. Minimum of 40 square feet of usable floor area per child, inclusive of furnishings and equipment is required.
 - 10.1.2.a.v. Minimum of 100 square feet of outdoor play area per child, available on the same lot is required. Such play space shall be on the rear half of the lot, enclosed by a fence or wall and a minimum of 30 feet from any adjacent residential building.
 - 10.1.2.a.vi. A driveway is required in order to allow off-street pickup and dropoff of children.
 - 10.1.2.a.vii. Minimum distance requirement shall be 500 feet from another such facility.

155-10.2 ALTERNATIVE HOUSING OPTIONS FOR THE ELDERLY

- 10.2.1 Intent. In order to promote the general welfare and meet the specialized housing needs of the elderly, the provisions of this article are intended to:
 - 10.2.1.a. Provide for small-scale housing facilities for elderly persons in LDR and MDR zoning districts in the Township.
 - 10.2.1.b. Provide housing which will integrate elderly persons into the community as a whole in harmony with surrounding residential areas.
 - 10.2.1.c. Provide for the special housing needs of persons ~~62-55~~ years of age or older who might not otherwise be able to acquire adequate housing in the community.
- 10.2.2 Specialized Conversions. In LDR and MDR zoning districts, a single-family dwelling may be converted into no more than three apartments for the elderly, provided that the following criteria are met:

- 10.2.2.a. Each apartment shall be a self-contained unit with separate bath, kitchen and living facilities for no more than two persons.
 - 10.2.2.b. The provisions of "155-8.1 Minimum Required Parking" shall be applicable.
 - 10.2.2.c. The exterior of the building will not be structurally altered to accommodate the conversion, beyond those required for reasons of safety or compliance with the accessibility and requirements of the International Building Code.
 - 10.2.2.d. No part of any apartment unit can be above the second floor of the building.
 - 10.2.2.e. The building may only be occupied by persons 62 years of age or older, their spouses, ~~or companions, or caregivers as needed for support.~~
 - 10.2.2.f. The zoning permit granted for this use shall expire six months after the building ceases being occupied by elderly persons as herein provided, and the dwelling shall revert back to a single-family dwelling.
 - 10.2.2.g. The owners shall apply for and receive an annual permit from the Township.
 - 10.2.2.h. If the facility is not owner occupied, its use shall be sponsored by a nonprofit organization, a purpose of which is to provide housing for the elderly and to assume responsibility for overseeing the care and welfare of the residents. Such organization shall have a designated agent resident or offices in the ~~Township~~ county.
- 10.2.3 Restricted Accessory Apartments. In LDR and MDR zoning districts, a single-family dwelling may be converted into two dwelling units, each with its own cooking facilities, provided that the following criteria are met:
- 10.2.3.a. All individuals living in the dwelling units are related by blood, marriage or legal adoption.
 - 10.2.3.b. One of the dwelling units shall contain no more than two persons, ~~each one~~ of whom shall be 62 years of age or older.
 - 10.2.3.c. The owner of the property shall execute an agreement with the Township, which shall be recorded with the Recorder of Deeds of Montgomery County and which provides for the immediate removal of separate cooking facilities at such time as they are no longer being utilized as specified in this section.
 - 10.2.3.d. All provisions of the Lower Merion Township Code, Chapter 62, entitled "Building Construction," shall be complied with.
 - 10.2.3.e. The provisions of "Article 8: Parking Standards" shall be applicable.
 - 10.2.3.f. If the restricted accessory apartment is located in an accessory structure, the accessory structure shall comply with the principal ~~accessory~~ building setbacks in the underlying zoning district.
 - 10.2.3.g. The zoning permit granted for this use shall expire six months after the building ceases being occupied by elderly persons as herein provided, and the dwelling shall revert back to a use permitted in the district in which it is located
 - 10.2.3.h. The owner shall apply for and receive an annual permit from the Township.
 - 10.2.3.i. One dwelling unit shall have no less than two times the square footage of occupied space than the other.
 - 10.2.3.j. If the facility is not owner occupied, its use shall be sponsored by a nonprofit organization, a purpose of which is to provide housing for the elderly and to assume responsibility for overseeing the care and welfare of the residents thereof. Such organization shall have a designated agent resident or offices in the Township.

155-10.3 ~~GROUP~~ SHARED RESIDENCES FOR THE ELDERLY OR THE DISABLED.

- 10.3.1 In LDR or MDR zoning districts, the construction, alteration or use of a principal building on a lot for a ~~group~~ shared residence for up to six elderly or disabled persons who are capable of self-preservation and desirous of living together as a family unit with up to two caregivers is permitted, provided that the following criteria are met:
 - 10.3.1.a. The building may be occupied only by persons with a disability or who are 62 years of age or older, their spouses or companions or by persons 55 years of age or older if the housing meets the criteria for discriminating in favor of such persons set forth in the Civil Rights Act of 1968, as amended, or any succeeding legislation.

- 10.3.1.b. ~~Group~~ Shared residences for the elderly and disabled shall be sponsored by a community-based nonprofit organization, a purpose of which is to provide housing for the elderly and to assume responsibility for overseeing the care and welfare of the residents thereof. Such organizations shall have a designated agent resident or unit offices in the Township.
- 10.3.1.c. Each residence shall contain separate bedrooms, for individuals not related to each other. Living, kitchen, dining and sanitary facilities, including bath facilities, may be shared. At least 1.5 baths shall be provided for every three residents.
- 10.3.1.d. If a ~~group~~ shared residence is proposed for an existing building, the exterior of the building shall not be structurally altered to accommodate use as a group shared residence except for alterations required for reasons of safety or compliance with the accessibility and requirements of the International Building Code. If new construction, the proposed building and its landscaping shall have a residential appearance compatible with the surrounding neighborhood.
- 10.3.1.e. Buildings used for ~~group~~ shared residences shall comply with all health, housing, fire and building codes of the Township and all applicable state statutes and regulations.
- 10.3.1.f. At least 0.5 on-site, off-street parking spaces shall be provided for every resident of the ~~group~~ shared residence.
- ~~10.3.1.g. A group shared residence for the elderly and disabled shall not be located near incompatible uses, such as heavy commercial or industrial areas.~~
- 10.3.1.g. Permit requirements:
- 10.3.1.g.i. The sponsor shall apply for and receive an annual permit from the Township in order to operate a ~~group~~ shared residence. Registration shall be completed in accordance with Chapter 92 of the Lower Merion Township Code. Further, in order to qualify for a permit for a group shared residence for the elderly, the sponsor shall demonstrate that:
- 10.3.1.g.i.(1). The ~~group~~ shared residence serves residents who are capable of self-preservation without assistance in the event of an emergency and who do not require the services or care provided by a personal care boarding home or skilled/intermediate care facility regulated by the Commonwealth of Pennsylvania; and
- 10.3.1.g.i.(2). The residents will live together as a single house-keeping unit and participate in the ongoing decision-making and daily operation of the building.
- 10.3.1.g.ii. The sponsor shall present this information to the Building and Planning Department in the form of a management plan.
- ~~10.3.1.h. The zoning permit granted for this use shall expire six months after the building ceases being occupied by elderly persons as herein provided, and the dwelling shall revert to a use permitted in the district in which it is located.~~

155-10.4 CONVERSION OF BUILDING TO ADULT DAYCARE

- 10.4.1 The Board of Commissioners may authorize as a conditional use the conversion of an existing dwelling in an MDR3 District into an adult day-care facility, subject to the following requirements:
- 10.4.1.a. The adult day-care facility shall serve participants who are ~~60-62~~ years of age or older or who are 18 years of age or older and have a disability.
- 10.4.1.b. The form standards shall be in compliance with "Article 4: District Specific Standards" in the MDR3 District according to "Table 4.2 MDR Form Standards" for each adult day-care facility.
- 10.4.1.c. A buffer area shall be provided along the full length of all side and rear lot lines, where a property abuts a LDR, MDR1 or MDR2 District. The buffer area shall be not less than 20 feet in width. The applicant shall also comply with the landscape design standards, site maintenance and guaranty provisions of Chapter 101, Natural Features Conservation, §§ 101-10 and 101-11.

- 10.4.1.d. Vehicular access shall be gained directly from and to a primary, secondary or tertiary street, or from a minor street if the point of access is within 200 feet of a primary, secondary or tertiary street and the applicant establishes that the major portion of the traffic created by the use will access the property from that direction.
- 10.4.1.e. A maximum of 45 participants shall be permitted in an adult day-care facility. This limitation shall not include staff.
- 10.4.1.f. There shall be a minimum of 50 square feet of floor space for each participant.
- 10.4.1.g. The applicant shall demonstrate that adequate parking for participants and staff and adequate areas for all delivery and pickup activities can be provided. The following are the minimum requirements:
 - 10.4.1.g.i. Minimum parking requirements shall be as designated in "Article 8: Parking Standards".
 - 10.4.1.g.ii. Adequate driveway and stacking space to accommodate one vehicle for every five adult participants measured from the location where participants are dropped off. If the applicant can demonstrate that the arrival times will vary, the stacking may be reduced to one vehicle for every 10 participants.
 - 10.4.1.g.iii. No parking or loading shall be permitted in the front yard setback.
 - 10.4.1.g.iv. A handicap accessible dropoff/pickup area shall be provided near the entrance to the building.
- 10.4.1.h. Parking, loading, unloading, ingress and egress may be provided on the adjacent property, subject to the following conditions:
 - 10.4.1.h.i. The adjacent property shall be owned by the applicant.
 - 10.4.1.h.ii. The adjacent property shall provide adequate ingress and egress for the proposed use.
 - 10.4.1.h.iii. The required driveways and parking on the adjacent lot are available during the hours of operation of the facility.
 - 10.4.1.h.iv. The required areas are within 200 feet of the building used for adult day care.
 - 10.4.1.h.v. The applicant shall enter into an agreement with the Township that if the adjacent property is no longer available for parking or ingress and egress, the applicant shall install the required improvements or cease the use of the adult day-care facility.
- 10.4.1.i. If the facility is to accommodate more than 20 persons or if the Board of Commissioners determines it to be necessary to its decision, the applicant shall perform a traffic study satisfactory to the Township Engineer and provide improvements needed to ensure safe ingress and egress.
- 10.4.1.j. The conditional use approval granted for this use shall expire six months after the building ceases to be occupied as an adult day-care facility, and the dwelling shall then revert to a use permitted in the district in which it is located.
- 10.4.1.k. Participants shall not be permitted to stay overnight.
- 10.4.1.l. The facility shall be licensed with the Commonwealth of Pennsylvania Department of Aging as an older daily living center prior to the issuance of an occupancy permit.

155-10.5 MEDICAL MARIJUANA DISPENSARY

- 10.5.1 Medical marijuana dispensary ~~in VC, TC and RC, shall be~~ subject to the following ~~restrictions~~ regulations:
 - 10.5.1.a. Shall be legally registered in the commonwealth and possess a current valid medical marijuana permit from the Pennsylvania Department of Health.
 - 10.5.1.b. Is only permitted to dispense medical marijuana in an indoor, enclosed, permanent, and secure building, and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.
 - 10.5.1.c. Is not permitted to operate on the same site as a facility used for growing and processing medical marijuana.
 - 10.5.1.d. Is not permitted to have a drive-through service.

- 10.5.1.e. Shall have a single secure public entrance and shall implement appropriate security measures to deter and prevent the theft of medical marijuana and unauthorized entrance into areas containing medical marijuana.
- 10.5.1.f. Permitted daily hours of operation of a medical marijuana dispensary shall be 8:00 a.m. to 8:00 p.m.
- 10.5.1.g. Is only permitted to dispense medical marijuana to certified patients and medical marijuana caregivers, and shall comply with all lawful, applicable state and local health regulations.
- 10.5.1.h. Shall comply with the separation requirements set forth in the Medical Marijuana Act. The separation distance shall be measured using a pedestrian route continually accessible to the public, measured from lot line to lot line, regardless of municipality in which it is located.
- 10.5.1.i. Parking requirements will follow the parking requirements for retail as specified in "Article 8: Parking Standards".
- 10.5.1.j. Vehicular ingress and egress to and from a medical marijuana dispensary site shall be designed to accommodate the anticipated vehicles used to service the facility.

155-10.6 MEDICAL MARIJUANA PROCESSING

- 10.6.1 A Medical marijuana grower/processor facility is authorized as a conditional use in LI, subject to the following ~~restrictions~~ regulations:
 - 10.6.1.a. Shall be legally registered in the commonwealth and possess a current valid medical marijuana permit from the Pennsylvania Department of Health.
 - 10.6.1.b. Shall only grow ~~in~~ medical marijuana in an indoor, enclosed, and secure building which includes electronic locking systems, electronic surveillance and other features required by the Pennsylvania Department of Health. The grower/processor facility shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.
 - 10.6.1.c. Maximum floor area shall be limited to 20,000 square feet, of which sufficient space shall be set aside for secure storage of marijuana seeds, related finished product, and marijuana-related materials used in production or for required laboratory testing.
 - 10.6.1.d. Marijuana remnants and byproducts shall be secured and properly disposed of in accordance with the Pennsylvania Department of Health policy, and shall not be placed within unsecured refuse containers.
 - 10.6.1.e. Shall provide only wholesale products to other permitted medical marijuana uses. Retail sales and dispensing of medical marijuana and related products is prohibited.
 - 10.6.1.f. All odors shall be managed by ventilation and exhaust equipment with operable filtration so that any odors are effectively confined to the interior of the building. There shall be no emission of dust, fumes, vapors, odors, or waste into the environment that can be seen, smelled, or otherwise perceived beyond the facility.
 - 10.6.1.g. Parking requirements shall be as specified in "155-8.5 Off-street Parking Layout & Design".
 - 10.6.1.h. Vehicular ingress and egress shall be designed to accommodate the anticipated vehicles used to service the facility. All vehicular access shall secure the appropriate highway occupancy permit.
 - 10.6.1.i. A plan shall be provided demonstrating that all external and internal lighting, including light for nighttime growing, is shielded in such a manner to not allow light to be emitted skyward or onto adjoining properties.
 - 10.6.1.j. Minimum 50-foot buffer planting shall be provided when adjoining a LDR or MDR zoning district.
 - 10.6.1.k. Shall not be located:
 - 10.6.1.k.i. Within 1,000 feet of a public, private, or parochial school or day-care center.
 - 10.6.1.k.ii. Within 3,000 feet of another medical marijuana grower/processor facility.
 - 10.6.1.l. No pictures, photographs, drawings or other depictions of marijuana or marijuana paraphernalia shall be displayed on the outside of the facility or any sign associated therewith.
 - 10.6.1.m. Shall comply with any other lawful and applicable requirements or ~~restrictions~~ regulations imposed by state and/or local laws or regulations.

- 10.6.1.n. Any use which may be noxious or offensive due to the emission of odor, dust, fumes, smoke, gas, vibration or noise as to constitute a nuisance is prohibited.
- 10.6.1.o. Rowhouses and multifamily buildings are permitted subject to compliance with the following:
 - 10.6.1.o.i. Form standards for MDR-3.
 - 10.6.1.o.ii. Provisions of "155-10.1 Supplemental Use Regulations":

155-10.7 MANDATED EMERGENCY SERVICE

Emergency Facilities (Ambulance Services and Fire Stations)

- 10.7.1 In LDR & MDR Zoning Districts may be authorized as a Conditional Use, subject to the following ~~restrictions~~ regulations:
- 10.7.1.a. The building ~~should~~ shall be designed in terms of mass and appearance to conform to the area in which it is located.
 - 10.7.1.b. Impervious ~~cover~~ surface limitations shall conform to the underlying zoning district.
 - 10.7.1.c. The principal building shall meet all setback requirements of the underlying zoning district.
 - 10.7.1.d. Emergency service shall have direct access onto a primary or secondary street.
 - 10.7.1.e. A minimum two-mile separation distance shall be provided in LDR zoning districts between like emergency service facilities.
 - 10.7.1.f. Improvements based upon a traffic study acceptable to the Board of Commissioners shall be constructed to ensure safe ingress and egress from the property.
 - 10.7.1.g. Parking requirements shall be as specified in "Article 8: Parking Standards". Additionally, parking shall comply with the following:
 - 10.7.1.g.i. Parking and maneuvering space for volunteers and emergency equipment shall be provided based upon the number or size of the vehicles anticipated.
 - 10.7.1.g.ii. No parking shall be permitted within any setbacks.
 - 10.7.1.h. A twenty-foot screening buffer shall be provided if adjacent to LDR or MDR zoning districts. The Board of Commissioners may also require fencing if required for public safety or to avoid a public nuisance. Access drives may penetrate this buffer.
 - 10.7.1.i. All emergency vehicles, except those immediately available for use, shall be stored at all times in a fully enclosed building.
 - 10.7.1.j. No motor repair or body work may be performed at the site. Routine maintenance is permitted and may only be performed within a fully enclosed building.
 - 10.7.1.k. Land-based sirens shall not be operated in LDR or MDR zoning districts. The Board of Commissioners may impose further ~~restrictions~~ regulations to eliminate noise from the facility or associated emergency vehicles to prevent them from becoming a public nuisance.
 - 10.7.1.l. Outdoor lighting shall be ~~restricted~~ regulated to eliminate glare on surrounding properties.
 - 10.7.1.m. Signage shall be limited to that permitted in the underlying zoning district.

155-10.8 CONVERSION OF BUILDING TO EMERGENCY MANDATED SERVICE

- 10.8.1 The Board of Commissioners may authorize as a conditional use the conversion of an existing building in a VC, TC or ~~RC~~ CAD [RESERVED] district, to a mandated emergency service use subject to the following requirements:
- 10.8.1.a. There shall be no expansion to the existing building.
 - 10.8.1.b. There shall be no increase to the existing impervious surface on the property.
 - 10.8.1.c. The organization or agency shall maintain tax-exempt status under Section 501 (C)(3) or (4) of the Internal Revenue Code, as amended.
 - 10.8.1.d. A minimum two-mile separation distance shall be provided between like emergency mandated service facilities.
 - 10.8.1.e. Parking shall be the minimum space requirements for office uses in the underlying district as specified in "Article 8: Parking Standards". Additional parking and maneuvering space for volunteers and emergency equipment shall be provided based upon the number or size of the vehicles anticipated. The required parking shall be provided on the existing impervious surface.
 - 10.8.1.f. Land-based sirens shall not be operated.
 - 10.8.1.g. All emergency vehicles, except those immediately available for use, shall be stored at all times in a fully enclosed building.
 - 10.8.1.h. No motor repair or body work may be performed at the site. Routine maintenance may be performed, but only within a fully enclosed building.
 - 10.8.1.i. Existing pervious surface between the existing building and the side and rear property line shall be planted to provide a 20-foot minimum buffer when abutting a residential use or district.
 - 10.8.1.j. The applicant shall demonstrate that any increase in traffic and any use of abutting streets by emergency vehicles shall not adversely impact local traffic conditions or represent a danger to the community.

155-10.9 ANTENNAS

- 10.9.1 In LDR and MDR Districts, antennas are permitted as accessory uses only and are subject to the following regulations:
- 10.9.1.a. No more than one conventional and one satellite dish antenna is permitted per lot. Any person, partnership, corporation or association maintaining an antenna on a lot occupied by multiple tenants, condominium and/or homeowners, whether residential, commercial or industrial, shall make this antenna available to serve all such occupants.
 - 10.9.1.b. Ground-mounted antennas are permitted only on that side of the principal building where the rear yard is located. If usable satellite signals cannot be obtained from such rear yard, the antenna may be located on the side yard, provided that a special accessory use permit is obtained prior to such installation. Antennas must be set back from side and rear property lines a minimum distance equal to the height of the antenna.
 - 10.9.1.c. Antennas may not exceed 13 feet in height.
 - 10.9.1.d. Roof-mounted antennas are permitted by right, subject to the provisions set forth under subsection 10.9.2.d below.
 - 10.9.1.e. Use of the antenna is limited to the lot on which it is located.
 - 10.9.1.f. Where a ground-mounted antenna is in full view of adjoining properties, plantings, designed to ameliorate the visual impact or to provide a partial visual screen, as approved by the ~~Shade Tree Division of the Public Works Department~~ Director of Building & Planning, will be required.
 - 10.9.1.g. In LDR3 and MDR Districts, the provisions of Subsection A(1), (2), (3) and (5) above shall not apply to franchisees using antennas to provide cable television service within the Township, except that such antennas may not exceed 23 feet in height.

- 10.9.2 In ~~the VC, TC, RC [RESERVED], and LI~~ all other districts, antennas are permitted as accessory uses only and are subject to the following regulations:
- 10.9.2.a. Roof-mounted antennas are permitted by right subject to the provisions set forth under subsection 10.9.2.d below.
 - 10.9.2.b. Ground-mounted antennas are permitted only on that side of the principal building where the rear yard is located, but not within any required yard area for the principal building. Antennas must be set back from side and rear property lines a minimum distance equal to the height of the antenna.
 - 10.9.2.c. Antennas may not exceed 13 feet in height.
 - 10.9.2.d. Where a ground-mounted antenna is in full view of adjoining properties, plantings designed to ameliorate the visual impact or to provide a partial visual screen, as approved by the Shade Tree Division of the Public Works Department, will be required.
 - 10.9.2.e. The provisions of **Subsection B(2) and (3)** above shall not apply to franchisees using antennas to provide cable television service within the Township, except that such antennas may not exceed 23 feet in height.
- 10.9.3 A Lower Merion Township building permit must be obtained before an antenna is installed. The adequacy of the proposed anchoring must be certified by a registered professional engineer.
- 10.9.4 In the event that usable signals cannot be received by locating the antenna on the rear or side yard of the property, such antenna may be roof-mounted, provided that a special accessory use permit is obtained prior to such installation and provided that it is screened from view from public thoroughfares. Such permit shall be issued notwithstanding the view from a public thoroughfare upon a showing by the applicant that usable satellite signals are not receivable from any location on the property other than the location selected by the applicant. No fee shall be assessed and no public hearing shall be required for the issuance of such permit.
- 10.9.5 Legislative intent.
- 10.9.5.a. Antennas provide users with a wide variety of video programming which may be unavailable from other sources. The Board of Commissioners recognizes this valuable means of telecommunications.
 - 10.9.5.b. The Board of Commissioners also recognizes its duty to protect the health and welfare of the community through the police powers, specifically the zoning power, delegated to the Board of Commissioners by the commonwealth. The Board of Commissioners desires to provide for the use and enjoyment of antennas by Township residents while protecting the safety and health of the residents and preserving the character of the community property values and general appearance of the Township.
 - 10.9.5.c. The Board of Commissioners finds that:
 - 10.9.5.c.i. Antennas are a valid accessory use in residential districts. As accessory structures are limited to rear yards by other sections of this chapter, antennas should also be placed in rear yards. This requirement will enhance the appearance of the residential neighborhoods of the Township and preserve property values.
 - 10.9.5.c.ii. Limitations on the number of antennas on residential lots will provide individual property owners with access to antenna technology while minimizing the impact on the appearance of the neighborhood.
 - 10.9.5.c.iii. Limitation on the size of the antenna to 13 feet will enable property owners to use antennas large enough to assure adequate video reception while prohibiting antennas which are unnecessarily large and unsightly.

- 10.9.5.c.iv. Roof-mounted antennas may pose a health and safety danger to the community. Improperly installed antennas may become unstable and fall, causing personal injury and property damage. Even properly installed antennas may become damaged by high winds or other adverse weather conditions and present a health and safety hazard. Installation of roof-mounted antennas will be limited to those buildings in which the property owners have, in general, taken precautions to protect residents and passersby from injury due to falling objects. In addition, this limitation will also enhance community appearance and preserve property values.

155-10.10 WIRELESS COMMUNICATION FACILITIES

- 10.10.1 Purposes. The purposes of this section shall be as follows:
- 10.10.1.a. To accommodate the need for wireless communication facilities while regulating their location and number in the Township.
 - 10.10.1.b. To minimize adverse visual effects of wireless communication facilities and support structures through proper design, siting and vegetative screening.
 - 10.10.1.c. To avoid potential damage to adjacent properties from support structure failure and falling ice, through engineering and proper siting of support structures.
 - 10.10.1.d. To encourage the joint use of any new support structures to reduce the number of such structures needed in the future.
- 10.10.2 Definitions. For the purposes of this section, the definitions in "Article 2: Definitions" shall apply.
- 10.10.3 Use regulations.
- 10.10.3.a. A wireless communications facility with support structure shall be a permitted use of land in all commercial zoning districts and the ~~M Manufacturing and Industrial Districts LI District~~, except for land ~~otherwise used for~~ within 500 feet of a day-care, preschool, primary and secondary school facility. In residence zoning districts, a wireless communication facility with support structure is permitted only if the property is owned by the Township of Lower Merion and used for municipal purposes or if the property is a cemetery use conducted on a lot of at least 10 acres in size.
 - 10.10.3.b. An attached wireless communication facility is a permitted use in all zoning districts, except for land within 500 feet of a day-care, preschool, primary and secondary school facility.
 - 10.10.3.c. If the application is for a wireless communication facility on a new support structure, then a special exception from the Zoning Hearing Board will be required.
 - 10.10.3.d. All other uses ancillary to a wireless communication facility (including a business office, maintenance depot, vehicle storage, etc.) are prohibited from the wireless communication facility site unless otherwise permitted in the zoning district in which the wireless communication facility site is located.
 - 10.10.3.e. No wireless communication facility with support structure shall be permitted on a lot which is nonconforming as to size, and no more than one such support structure shall be permitted on any lot.
 - 10.10.3.f. No more than one wireless communication facility visible from a lot line of the property on which it is located shall be permitted on any lot unless multiple facilities are collocated on a single support structure.
- 10.10.4 General standards applicable to all wireless communication facilities.
- 10.10.4.a. Height restrictions.
 - 10.10.4.a.i. Attached wireless communication facilities.
 - 10.10.4.a.i.(1). Antenna array on any attachment structure must be more than 35 feet above ground on all sides of the structure and are prohibited on all structures 35 feet or less in height.
 - 10.10.4.a.i.(2). The height from grade of the antenna array may not exceed the height from grade of the attachment structure by more than 20 feet.

- 10.10.4.a.i.(3). If a wireless communication facility or its appurtenances extend above the primary roof of any attachment structure, they must be set back one foot from the edge of the primary roof for each one foot in height above the primary roof which the wireless communication facility extend unless the facility is appropriately screened from view through the use of panels, walls or other screening techniques approved by the Township. Setback requirements shall not apply to a wireless communication facility which is mounted on the exterior of an attachment structure below the primary roof, and which does not protrude more than 18 inches from the side of such attachment structure.
- 10.10.4.a.ii. Wireless communication facilities with support structure.
- 10.10.4.a.ii.(1). The maximum height of any wireless communication facility shall be 200 feet.
- 10.10.4.a.ii.(2). The applicant shall demonstrate that the wireless communication facility with support structure is the minimum height required to function satisfactorily within the applicant's grid. No such facility that is taller than this minimum height shall be approved, except to facilitate collocation.
- 10.10.4.a.ii.(3). The measurement of height for the purpose of determining compliance with these requirements shall be from grade and shall include the support structure itself, the base pad and any facilities attached thereto.
- 10.10.4.b. Setbacks from base of support structure. If a new support structure is constructed (as opposed to mounting the wireless communication facility on an existing support structure), the minimum distances between the base of the support structure or any guy-wire anchors and any property line or ROW line shall be the largest of the following:
- 10.10.4.b.i. In residence zoning districts, all wireless communication facilities with support structure shall be set back a minimum distance equal to the height of the wireless communication facility with support structure. If the support structure is self-collapsing, the setback may be reduced to 50 feet, plus one foot for each additional foot in height above 100 feet, provided that it is placed within the setback envelope at a location which the Director of Building and Planning determines will make it least visible from a property or ROW line.
- 10.10.4.b.ii. In Commercial and Manufacturing Zoning Districts, all wireless communication facilities with support structure shall be set back a minimum distance of 25 feet, plus one foot for each additional foot in height above 100 feet. In no case shall the set back from a Residential Zoning District be less than that required if the property were zoned residential.
- 10.10.4.b.iii. These setback provisions shall not apply to Township property.
- 10.10.4.b.iv. Setback requirements may be modified by conditional use if the Board of Commissioners finds that placement of a wireless communication facility with support structure in a particular location will reduce its visual impact, for example, if adjacent to trees or a structure which may provide a visual screen.
- 10.10.4.c. Support structure safety. The applicant shall demonstrate that the proposed wireless communication facility and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris or radio frequency interference. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.
- 10.10.4.d. Stealth design. Wireless communication facilities shall be of stealth design, as required by the Township, and must comply with the following standards relating to aesthetics, placement, materials and colors:

- 10.10.4.d.i. Attached wireless communication facilities shall be designed and maintained so as to blend in with the existing structure to the extent feasible, including placement in a location which is consistent with proper functioning of the wireless communication facility and use of compatible or neutral colors.
- 10.10.4.d.ii. Attached wireless communication facilities shall be screened in a reasonable and achievable manner.
- 10.10.4.d.iii. Wireless communication facilities with support structure shall be designed so as to blend in with the existing surroundings feasibly, including the use of compatible colors and disguised structures.
- 10.10.4.d.iv. Equipment facilities shall, to the extent practicable, use materials, colors and textures that blend in with the natural setting and built environment.
- 10.10.4.e. Special standards applicable to all wireless communication facilities other than micro facilities.
 - 10.10.4.e.i. Fencing. A fence shall be required around the wireless communication facility with support structure and other equipment unless the wireless communication facility is mounted on an attachment structure. The fence shall be a maximum of eight feet in height and shall conform to the provisions of § 155-130.
 - 10.10.4.e.ii. Landscaping. The applicant shall submit a planting plan with its application, preserving existing vegetation on and around the site to the greatest extent possible. The Township will utilize the guidelines of the Natural Features Conservation Code, Chapter 101, prior to granting approval.
 - 10.10.4.e.iii. In order to reduce the number of wireless communication facilities with support structure in the community in the future, the proposed support structure shall be required to accommodate other users, including other wireless communication service providers and police, fire and ambulance companies.
 - 10.10.4.e.iv. Support structures shall meet all Federal Aviation Administration (FAA) regulations. No support structure may be artificially lighted except when required by the FAA.
 - 10.10.4.e.v. Variance. If a variance is requested from the Zoning Hearing Board from any of the requirements of this section, in addition to the normal application requirements, the application for variance shall include the following:
 - 10.10.4.e.v.(1). A description of how the applicants' construction plan addresses any adverse impact which might occur as a result of approving the variance.
 - 10.10.4.e.v.(2). A description of off-site or on-site factors which mitigate any adverse impacts which might occur should the variance be granted.
 - 10.10.4.e.v.(3). A technical study which documents and supports the criteria submitted by the applicant upon which the request for variance is based. Such technical study shall be certified by an engineer and shall document the existence of the facts related to the proposed variance and its relationship to the surrounding ROW and properties.
 - 10.10.4.e.v.(4). For a variance to the setback requirement, the application shall identify all property where the proposed tower could be located, attempts by the applicant to contact and negotiate an agreement for location or collocation and the result of such attempts.
- 10.10.4.f. Standards of special exception approval. If an applicant requires a special exception, it must comply with the provisions of section "11.2.8 Burden of Proof" as well as the following:

- 10.10.4.f.i. Using technological evidence, demonstrate that the wireless communications facility must go where it is proposed in order to meet the community's need for wireless communication services not presently being met by any wireless communications provider.
- 10.10.4.f.ii. Demonstrate that a good faith effort was made to mount antenna array on an existing structure. The applicant shall submit proof that it contacted the owners of tall structures within a one-fourth-mile radius of the site proposed, asked for permission to install the facility on those structures, offered market compensation to such owners and was denied. This would include smokestacks, water towers, tall buildings, support structures of other cellular communications companies, other communications towers (fire, police, etc.), and other tall, feasible and structurally sound structures.
- 10.10.4.f.iii. Provide evidence satisfactory to the Zoning Hearing Board that the stealth design of the wireless communication facility effectively minimizes its visual impact and blends with its surroundings.
- 10.10.4.f.iv. A plan shall be required for all wireless communication facilities showing the antenna array, support structure, building, fencing, buffering, access and such other information as the Township may require to illustrate the relationship between the proposed facility and adjacent structures and property lines.
- 10.10.4.f.v. Comply with the general standards of approval for all wireless communication facilities as set forth herein.
- 10.10.4.f.vi. The owner of any new support structure shall be required to accommodate other users on the support structure, provided that the structure is capable of supporting the additional facilities, the prospective user offers fair market rent and the operation of the additional facilities will not interfere with other communications facilities.
- 10.10.4.g. Nonconforming wireless communications facilities. Wireless communication facilities in existence on the date of the adoption of this subsection, which do not comply with the requirements of this section, shall be subject to the provision of § 140-10.

155-10.11 VEHICLE LIFT

- 10.11.1 A vehicle lift shall only be permitted as an accessory use on property otherwise lawfully used as a motor vehicle sales agency and solely for the purpose of vehicle display or storage. Vehicle lifts shall only be operated by an employee of the sales agency displaying the motor vehicle. Vehicle lifts shall also be subject to the following regulations:
 - 10.11.1.a. The minimum setback from any street line shall be 100 feet.
 - 10.11.1.b. The minimum setback from any property line abutting a residentially zoned property used for residential purposes shall be 20 feet.
 - 10.11.1.c. A row of trees designed to screen the lift and any supported vehicle shall be installed between the lift and the street.
 - 10.11.1.d. A row of trees designed to screen the lift and any supported vehicle from adjacent properties shall be installed between the lift and adjacent properties.
 - 10.11.1.e. The lift may not be raised to a height in excess of 10 feet above grade.
 - 10.11.1.f. The storage spaced provided on or under a vehicle lift shall not be counted as a parking space required under this chapter.
 - 10.11.1.g. The area underneath a vehicle lift shall be considered building area for purposes of compliance with building area limitations under this chapter.

155-10.12 NONCONFORMITIES

- 10.12.1 Statement of intent. It is the intent of this section to provide for the continuance of lawful existing uses, structures, lots, and signs which would be prohibited or restricted under the terms of this Zoning Code as originally adopted on _____, referred to in this section as the "adoption date

~~of this Chapter", or subsequent amendments thereto, and which, therefore, do not conform to the regulations of the zoning district in which they are located, but to subject such uses, structures, lots and signs to reasonable regulations and restrictions for the protection of the public health, safety and welfare.~~

- 10.12.2 Nonconforming uses: Continuance, discontinuance, and changes.
- 10.12.2.a. Continuance: The lawful use of a building or land existing on the adoption date of this Chapter or any amendment thereto may be continued although such use does not conform to the provisions of this Chapter.
- 10.12.2.b. Unlawful use. If a lawful nonconforming use of land or of a building ceases for any period of time and if a use is made thereof which is unlawful under the terms and conditions of this Chapter, the prior nonconforming use may not thereafter be continued, and subsequent use of such land or building shall be in conformity with the provisions of this Chapter.
- 10.12.2.c. Discontinuance. If a nonconforming use of land or of a building ceases or is discontinued for a continuous period of six months or more, subsequent use of such building or land shall be in conformity with the provisions of this Chapter.
- 10.12.2.d. Changes
- 10.12.2.d.i. A nonconforming use of a building or of land may be changed only to a use which is permitted in the zoning district in which the property is located.
- 10.12.2.d.ii. Once changed to a conforming use, no structure or land shall be permitted to revert to the previous nonconforming condition or use.
- 10.12.2.e. Restoration of a non-residential nonconforming use within a building. The nonconforming non-residential use in a building which has been damaged or destroyed by purpose, neglect or accidental cause may not be continued or transferred to any reconstructed portion of the building unless such damage or destruction occurred to an extent of not more than 75% of the habitable floor area, and:
- 10.12.2.e.i. The restored building does not exceed in height, area or volume the building damaged or destroyed; and
- 10.12.2.e.ii. Reconstruction is commenced within one year from the date the building was damaged or destroyed, unless the Zoning Hearing Board shall authorize as a special exception an extension of this time limit, and reconstruction shall be carried on without interruption.
- 10.12.2.f. Restoration. The nonconforming residential use in a building which has been damaged or destroyed by accidental cause may be reconstructed to the same footprint as existed prior to the accidental incident, subject to the following:
- 10.12.2.f.i. The reconstructed building does not exceed in height, area or volume the building damaged or destroyed; and
- 10.12.2.f.ii. Building reconstruction is commenced within one year from the date the building was damaged or destroyed, unless the Zoning Hearing Board shall authorize as a special exception an extension of this time limit, and reconstruction shall be carried on without interruption.
- 10.12.2.g. Maintenance: Nothing in this section shall prevent the strengthening or restoration to a safe condition of any walls, floor, foundation, or roof of a building occupied by a non-conforming use which building has been declared unsafe by the Township Building Code Official.
- 10.12.2.h. Extension or expansion. A building occupied by a nonconforming use and the nonconforming use within a building or on a lot as it existed in size and scope on the date it first became non-conforming may be expanded or extended, subject to the following:
- 10.12.2.h.i. Expansion within a building. A nonconforming use within an existing building may be expanded within the building provided the expansion does not exceed 25% of the building area devoted to the use on the date the use became nonconforming. The term "area devoted to the use" shall include the total floor area within the building devoted to the nonconforming use. This right of expansion shall be applied separately to each building on the lot.

- 10.12.2.h.ii. Expansion of an existing building. A building occupied by a nonconforming use may be expanded and occupied by that non-conforming use provided the expansion does not exceed 25% of the floor area devoted to the use on the date it first became nonconforming.
 - 10.12.2.h.iii. Expansion to the exterior of a lot. If the exterior of a lot is used for a non-conforming use, the exterior lot area devoted to the nonconforming use may be expanded by no more than 10% of the area devoted to the use on the date it first became nonconforming.
 - 10.12.2.h.iv. Any extension or expansion of a nonconforming use shall conform with the requirements of Article 3: General to Districts, Article 4: District Specific Standards, Article 7: Conservation and Preservation Overlays, Article 8: Parking Standards, and Article 9: Signs. (are there any other Articles that need to be referenced here?)
- 10.12.3 Dimensionally Nonconforming Buildings or Structures.
- 10.12.3.a. Buildings or Structures that are nonconforming to the dimensional requirements in this Chapter related to height, yard, setback, buffer, or floor and building area, shall be subject to the following:
 - 10.12.3.a.i. Continuation. An existing dimensionally non-conforming building or structure lawfully constructed on the effective date of this Chapter or any amendment thereto by which it became nonconforming, or authorized by a building permit issued prior thereto, may be continued.
 - 10.12.3.a.ii. Restoration.
 - 10.12.3.a.ii.(1). A nonconforming non-residential building or structure which has been damaged or destroyed by purpose, neglect or accidental cause to an extent of not more than 75% of the floor area may be restored, provided that reconstruction shall be commenced within one year from the date the building or structure was damaged or destroyed, unless the Zoning Hearing Board shall authorize as a special exception an extension of this time limit, and reconstruction shall be carried on without interruption. Otherwise it may not be restored.
 - 10.12.3.a.ii.(2). A nonconforming residential building, accessory building or accessory structure which has been damaged or destroyed by accidental cause may be reconstructed to the same footprint as existed prior to the accidental incident provided the building does not exceed in height, area or volume the building damaged or destroyed. Building reconstruction must be commenced within one year from the date the building was damaged or destroyed, unless the Zoning Hearing Board shall authorize as a special exception an extension of this time limit, and reconstruction shall be carried on without interruption.
 - 10.12.3.a.iii. Extension or expansion. A building that is nonconforming to the setback requirements in this Chapter may be expanded or extended subject to the following limitations:
 - 10.12.3.a.iii.(1). The extension shall maintain any nonconforming setback and shall not extend closer to the street line or property line than the existing nonconforming building.
 - 10.12.3.a.iii.(2). The maximum height of any single story extension in the required setback shall not exceed 16 feet above ground level unless the extension is a minimum of 10 feet from the property line.

- 10.12.3.a.iii.(3). If the extension is a minimum 10 feet from the property line, a second story shall be permitted with a maximum height of 30 feet.
- 10.12.3.a.iii.(4). Any extension or expansion shall conform with the requirements of Article 3: General to Districts, Article 4: District Specific Standards, Article 7: Conservation and Preservation Overlays, Article 8: Parking Standards, and Article 9: Signs.
- 10.12.3.a.iii.(5). The maximum length of the extension in the required setback shall be 20 feet.
- 10.12.3.a.iii.(6). The maximum floor area of the extension permitted in a required setback is 400 square feet per floor.
- 10.12.3.a.iii.(7). No portion of the extension may project into any other required setback.
- 10.12.4 Lots nonconforming as to area and width regulations
 - 10.12.4.a. No structure may be erected on any dimensionally nonconforming lot unless it was held on the date it became nonconforming in single and separate ownership and provided that all other requirements of the district in which the lot is situated are complied with.
 - 10.12.4.b. Where structures having less than the required front yard exist on a majority of nonconforming lots of record that share common side property lines, the required front yard on each nonconforming lot, whether or not improved, shall be reduced to the average front yard of all such structures in the same block and on the same side of the street.
- 10.12.5 Identification and registration of nonconforming uses and nonconforming buildings or structures. The Zoning Officer shall, upon request, identify and register nonconforming uses and nonconforming buildings or structures.
- 10.12.6 Nonconforming site improvements
 - 10.12.6.a. Where nonconforming site improvements exist, such as walls, or similar site improvements, such nonconformities may continue and the nonconforming site condition may be altered only as provided below.
 - 10.12.6.a.i. No change shall be made in any nonconforming site improvement which increases the nonconformity.
 - 10.12.6.a.ii. Where existing Off-street Parking facilities are nonconforming to the requirements of this Code or any other Township standards, the restoration or rehabilitation of an existing Building is permitted but shall not increase the degree of the existing parking nonconformity.
 - 10.12.6.b. Nonconforming impervious coverage. A lot or lots nonconforming to the impervious coverage provisions in this Chapter shall be subject to the following:
 - 10.12.6.b.i. Nonconforming impervious coverage levels may not be increased, unless otherwise permitted by the Zoning Code.
 - 10.12.6.b.ii. When more than 75% of the impervious coverage is removed, or when the lot is subjected to redevelopment, the lot shall conform to the underlying impervious coverage provisions This requirement does not apply to existing parking lots that are only being restriped or resurfaced.
 - 10.12.6.c. Nonconforming fences. A fence nonconforming to the fence provisions in this Chapter shall be subject to the following:
 - 10.12.6.c.i. Nonconforming fences may only be replaced with conforming fences.
 - 10.12.6.c.ii. When more than 25% of a nonconforming fence is damaged, destroyed, or removed for any reason, the replacement fence must conform to the current fence regulations.
- 10.12.7 See Article 9 for nonconforming signs
- 10.12.8 Nonconforming wireless telecommunications - Refer to Chapter 140-12.

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