

Article XIII — Conditional Uses and Special Exceptions

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Article XIII – Conditional Uses and Special Exceptions

§ 21-1301 Purpose.

This Article requires that before any zoning permit is granted for the use of land or building for a conditional use, a site plan shall be reviewed by the Planning Commission and ap-

proved by Council. This provision is set forth because of the considerable aesthetic, traffic, and overall land use impact that these land uses have on a community. This Article also sets forth special conditions which must be met before either a special exception or a conditional use can receive approval and be granted a zoning permit.

[Ord. 415 10-29-2003]

§ 21-1302 Site Plan Requirements.

All conditional uses and special exceptions require site plans. The following information shall be included:

- (a) A statement as to the proposed use of the building or land.
- (b) A site layout drawn to a scale of not less than one (1) inch equals fifty (50) feet, showing the location, dimensions, and height of proposed buildings, structures, or uses, and any existing buildings, in relation to property and street lines. If the application relates to property which is scheduled to be developed in successive stages, such plans shall show the relationship of the portion scheduled for initial development to the proposed layout of the entire property.
- (c) The location, dimensions, and arrangements of all open spaces and yards and buffer yards, including methods and materials to be employed for screening.
- (d) The location, size, arrangement, and capacity of all areas to be used for motor vehicle access, off-street parking, and off-street loading and unloading, and provisions to be made for lighting such areas.
- (e) The dimensions, location, and methods of illumination of signs, if applicable.
- (f) The location and dimensions of sidewalks and all other areas to be devoted to pedestrian use.
- (g) Provisions to be made for treatment and disposal of sewage and industrial wastes, water supply, and storm drainage.
- (h) The capacity and arrangement of all buildings used or intended to be used for dwelling purposes, including the proposed density in terms of number of dwelling units per acre of land.
- (i) A description of any proposed industrial or commercial operations in sufficient detail to indicate effects of those operations in producing noise, glare, air pollution, water pollution, fire hazards, traffic congestion, or other safety hazards.
- (j) Description of methods to be employed in controlling any excess noise, air pollution, smoke, fumes, water pollution, fire hazards, or other safety hazards.

[Ord. 415 10-29-2003]

§ 21-1303 Application Procedures.

(a) **Conditional Use.** All applicants shall submit seventeen (17) sets of site plans to the Zoning Officer when making application for a conditional use.

(1) **Submission to Planning Commission.** The Zoning Officer shall submit his written report to the Planning Commission within fifteen (15) days after the Borough's receipt of the applicant's application or at the next regularly scheduled meeting.

(2) **Review by Planning Commission.** The Planning Commission shall, within forty-five (45) days after the Borough's receipt of the applicant's application, review and submit a recommendation to Council. The absence of action on the part of the Planning Commission within the said forty-five (45) days shall constitute approval of the conditional use application, and Council shall proceed in its review on the basis of such approval.

(3) **Review by Council.** The Council shall then hold hearings on and decide the request for a conditional use approval in accordance with the standards and criteria set forth in this Chapter and the procedures set forth in Section 21-1806 for hearings before the Zoning Hearing Board (substituting Council for the Zoning Hearing Board), except as otherwise provided in this subsection (a).

(4) **Hearing Officer.** The hearing shall be conducted by Council or Council may appoint any member or an independent attorney as a Hearing Officer. The decision or, where no decision is called for, the findings shall be made by Council. However, the applicant and the Borough may, prior to the decision of the Hearing Officer, waive decision or findings by Council and accept the decision or findings of the Hearing Officer as final.

(5) **Written Decision and Findings.** The Council or the Hearing Officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Council or Hearing Officer. Where the application is contested or denied, the decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of the Pennsylvania Municipalities Planning Code, this Chapter, or of any other ordinance, rule, or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him no later than the day following its date.

(6) **Deemed Approval.** Where the Council fails to render the decision within the period required by this subsection or fails to commence, conduct, or complete the required hearing as provided in Section 21-1806(b), the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of a failure of the Council to meet or render a decision as hereinabove provided, the Council shall give public notice of the decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in Section 21-1806(a). If the Council shall fail to provide such notice, the applicant may do so.

(7) **Court Appeals.** Nothing in this subsection (a) shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction

(b) **Special Exception.** All applicants for a special exception shall submit six (6) sets of site plans to the Zoning Officer, and shall also submit an application to the Zoning Officer and follow the procedure outlined in Article XVIII (relating to Zoning Hearing Board).

[Ord. 415 10-29-2003]

§ 21-1304 General Requirements.

(a) **In General.** Council shall approve any proposed conditional use, and the Zoning Hearing Board shall approve any proposed special exception use, if they find adequate evidence that any proposed use will meet all of the following general requirements, as well as any specific requirements and standards listed for the proposed use. Such proposed use shall be:

(1) In accordance with the Comprehensive Plan and consistent with the spirit, purposes, and intent of this Chapter.

(2) In the best interests of the Borough, the convenience of the community, the public welfare, and be a substantial improvement to property in the immediate vicinity.

(3) Suitable for the property in question, and designed, constructed, operated, and maintained so as to be in harmony with and appropriate in appearance with the existing or intended character of the general vicinity.

(4) In conformance with all applicable requirements of this Chapter.

(5) Suitable in terms of permitting the logical, efficient, and economical extension of public services and facilities such as public water, sewers, police and fire protection, and public schools.

(6) Suitable in terms of effects on street traffic and safety with adequate sidewalks and vehicular access arrangements to protect major streets from undue congestion and hazard.

(b) **Conditions.** In granting a conditional use, Council may attach such reasonable conditions and safeguards, in addition to those expressed in this Chapter, as it may deem necessary to implement the purposes of the Pennsylvania Municipalities Planning Code and this Chapter.

[Ord. 415 10-29-2003]

§ 21-1305 Multifamily Dwellings and Single-Family Attached Dwellings.

The following minimum requirements shall be met for multifamily dwellings (“MFD”) and single-family attached dwellings (“SFAD”):

(a) **Lot Area.** Any parcel of land developed under the terms of this Chapter shall contain the minimum lot area and maximum lot width at the building line in conformance with the district.

(b) **Density.** The overall gross density of occupancy in any permitted MFD development and SFAD development shall not exceed the dwelling unit density allowed in each respective district.

(c) **Floor Area.** The minimum floor area per dwelling unit shall be six hundred fifty (650) square feet, except MFD for the elderly, which may be no less than five hundred (500) square feet.

(d) **Open Space and Recreation.** A minimum of ten percent (10%) of the gross site area shall be designated for active or passive recreation activities. Where a recreation area exists or is planned within one-half (1/2) mile of the development site, the Borough shall have the option of receiving a donation of cash for open space/recreation purposes in lieu of Developer providing on-site open space/recreation areas, the amount of the contribution to be calculated in the same manner as contributions to the Borough in lieu of park and open space land dedication and expenditures on the land for recreational improvements under § 22-706(b) and (d) (relating to Subdivision and Land Development—General Design Standards—Open Space and Recreation Facilities and/or Cash Contributions).

(e) **Buffer Yards.** A fifty-foot buffer yard which satisfies the requirements of Article XV (relating to Buffer Strips) shall be provided along each side or rear property line which adjoins any lot that contains a nonresidential use not subject to the buffer yard requirements of Article XV with respect to the boundary between the nonresidential lot and the proposed MFD or SFAD development.

(f) **Building Orientation.** Facing walls are walls opposite to and parallel with one another and wall lines or wall lines extended of opposite walls intersecting at angles of less than sixty-five degrees (65°). The minimum horizontal distance between facing walls of any two (2) buildings on one (1) lot or any one (1) building with facing walls shall be as follows:

(1) Where two (2) facing walls both contain a window or windows, the distance shall in no case be less than seventy-five (75) feet.

(2) Where only one of the facing walls contains a window or windows, the distance shall in no case be less than fifty (50) feet.

(3) Where neither facing wall contains a window or windows, the distance shall in no case be less than twenty-five (25) feet.

(4) Between corners of two (2) buildings where no exterior wall of one building lies in such a way that it can be intersected by a line drawn perpendicular to any exterior wall of other buildings (other than a line that results from colinear walls), the distance shall be no less than twenty-five (25) feet.

(g) **Building Standards.** The following building standards shall be required:

(1) Maximum building size shall be restricted to no more than twelve (12) family units in any one (1) continuous structure, and, for an SFAD, there shall not be more than six (6) family units in any unbroken building structure line. A setback of more than ten (10) feet shall be considered as an acceptable break in the building structure line. No more than three (3) floors, one above the other, may be used for dwelling units or living quarters in any building. The maximum length of a building shall be two hundred (200) feet.

(h) **Off-street Parking Design Standards.** In addition to the off-street parking requirements, the following provisions shall apply:

(1) All parking spaces shall be at least twenty (20) feet from any multifamily dwelling or fifteen (15) feet from any single-family attached dwelling, except in those cases where an attached garage is provided, in which case the garage shall serve as one (1) of the required off-street parking spaces and the driveway leading to the garage shall serve as the second required off-street parking space.

(2) Driveways or access ways to a parking area shall be no closer than ten (10) feet to a building, except in those cases where the driveway leads to an attached garage.

(i) Water, Sewer, and Drainage.

(1) The proposed development shall be served by the existing public centralized water and sewerage system.

(2) A storm runoff and drainage system shall be installed by the developer in accordance with sound engineering principles so as to adequately drain the development and adequately dispose of all runoff and drainage away from the site in a manner that will not result in an excess amount of water flowing across streets or adjoining properties. Drainage plans shall be submitted with the application for a zoning permit and shall be subject to review and approval by the Borough Engineer or other qualified persons designated by Council. The Borough may require plantings and grading to control runoff. (*See also* Chapter 25, relating to Stormwater Management.)

(j) Refuse Storage. All refuse receptacles shall be suitably screened from view.

[Ords. 415 10-29-2003, 537 04-26-2017]

§ 21-1306 Places of Worship.

The following minimum requirements shall be met for places of worship:

(a) The site is adequate for proper building, drainage, water supply, and sewage disposal.

(b) The plan provides sufficient parking and assures safe pedestrian and vehicular circulation.

[Ord. 415 10-29-2003]

§ 21-1307 Public and Private Educational Institutions.

The following minimum requirements shall be met for public and private educational institutions, except such uses as commercial dance and music studios, and institutions of correction and detention:

(a) The site is adequate for proper building, drainage, water supply, and sewage disposal.

(b) Sufficient amounts of usable space exist for recreation areas, parking, loading, etc.

(c) The site is separated from excessive noises, odors, smoke, dirt, dust, and traffic congestion.

(d) Pedestrian and vehicular circulation are designed for safety and efficiency to achieve separation of vehicular and pedestrian traffic.

(e) The site is located and planned in such a manner that it can be used for both school and general community functions.

(f) The site presents attractive grading, landscaping, and pleasing views.

[Ord. 415 10-29-2003]

§ 21-1308 Public Facility Owned or Operated by the Borough or Other Government.

The following minimum requirements shall met for any public facility owned or operated by the Borough or other government:

(a) There shall be the minimum lot size.

(b) Any outdoor activity area shall be located no closer to any lot line than the required front yard depth and shall be screened, and, if necessary, sound insulation shall be provided to protect the neighborhood from any possible noise.

[Ord. 415 10-29-2003]

§ 21-1309 Nonprofit Recreational or Educational Facility.

The following minimum requirements shall met for a nonprofit recreational or educational facility, other than a golf course:

(a) There shall be the minimum lot size.

(b) Any outdoor activity area shall be located no closer to any lot line than the required front yard depth and shall be screened, and, if necessary, sound insulation shall be provided to protect the neighborhood from any possible noise.

(c) Completely detached buildings on the same lot shall be not less than twenty (20) feet from one another.

[Ord. 415 10-29-2003]

§ 21-1310 Bus or Taxicab Terminal.

The following minimum requirements shall be met for a bus or taxicab terminal:

(a) There shall be a minimum of one (1) acre.

(b) There shall be a planted, landscaped screen around the perimeter of the lot.

[Ord. 415 10-29-2003]

§ 21-1311 Nursery or Day-care Center.

The following minimum requirements shall be met for a nursery or day-care center:

- (a) Outdoor play area shall be screened from adjoining properties.
- (b) All applicable state requirements shall be met.

[Ord. 415 10-29-2003]

§ 21-1312 Home Office or Business.

All of the requirements set forth in § 21-247 (relating to the Definition of Home Office or Business) shall be satisfied for a home office or business. In addition, a non-intrusive home office or business shall also satisfy the requirements set forth in § 21-247(b) (relating to the Definition of Non-Intrusive Home Office or Business).

[Ord. 415 10-29-2003]

§ 21-1313 Planned Shopping Center.

The following minimum requirements shall be met for a planned shopping center:

(a) Any development of a shopping center shall provide initially for the construction of either a minimum of five thousand (5,000) square feet of ground floor area or a minimum of three (3) of the permitted uses in the C-1 district.

(b) All buildings shall be arranged in a group or in groups, and the distance at the closest point between any two (2) buildings or groups of attached buildings shall not be less than fifteen (15) feet.

(c) Off-street parking space shall be provided in accordance with the standards set forth in Article XIV.

(d) Parking, loading, and service areas shall be located entirely within the confines of the lot, shall be physically separated from public streets by buffer strips against unchanneled motor vehicular ingress and egress, and shall have not more than two (2) accessways to any one (1) public street.

(e) All accessways to a public street shall be located no less than one hundred (100) feet from the intersection of any street line.

(f) Along any residential district boundary line, a buffer yard shall be provided which shall be not less than fifty (50) feet in width, measured from such lot line or street line where such line constitutes the district boundary line. The exterior fifty (50) feet of said buffer yard shall be planted with grass seed, sod, in ground cover and shall be well maintained. No storage of materials shall be permitted in the said buffer yard.

(g) No storage of materials, equipment, or goods shall be permitted outside a building, unless they are located within a permanently enclosed patio.

(h) All parking, loading, access, and service areas shall be adequately illuminated at night. Such lighting, including sign lighting, shall be arranged so as to protect the highway and adjoining property from direct glare or hazardous interference of any kind. All utility lines servicing this area shall be placed underground.

(i) Pedestrian safety islands shall be required at the end of alternate parking bays. Each island shall be at least three hundred (300) square feet in area. Such islands shall be landscaped and designed to provide a safe area for pedestrians to wait prior to crossing vehicular traffic lanes; lighting standards may be incorporated in the design.

(j) If the development of the center is to be carried out in progressive stages, each stage shall be so planned that the requirements of this section and the intent of this Chapter shall be fully complied with at the completion of any stage.

(k) After the final development plan has been approved and when, in the course of carrying out the plan, adjustments such as rearrangements of buildings, parking areas, entrances, heights, or yards are requested by the proponents, and such requests conform to the standards established by the approved final development plan for the area to be covered by buildings, parking spaces, entrances, height, setback, and lot area requirements, such adjustments may be approved by the Planning Commission upon application, which shall be accompanied by a plan of the entire development with the proposed changes indicated.

[Ord. 415 10-29-2003]

§ 21-1314 Planned Medical and/or Dental Center.

Every planned medical and/or dental center:

- (a) Shall be totally planned to function as a unit.
- (b) Shall comply with the performance standards of this Chapter.

[Ord. 415 10-29-2003]

§ 21-1315 Motel, Hotel, or Motor Inn.

For every motel, hotel, or motor inn, the entrance and exit drive crossing the street right-of-way shall be limited to two (2) along the frontage of any street.

[Ord. 415 10-29-2003]

§ 21-1316 Automotive Service Station.

The following minimum requirements shall be met for an automotive service station:

- (a) The minimum lot width shall be two hundred (200) feet along each street on which the lot abuts.

(b) All activities except those to be performed at the fuel pumps shall be performed within a completely enclosed building.

(c) Fuel pumps shall be at least twenty-five (25) feet from any street right-of-way.

(d) All automobile parts and dismantled vehicles are to be located within a building.

(e) Full-body paint spraying or body and fender work shall not be permitted.

(f) Automobiles that are taken to a service station for outside storage because of an accident may remain no longer than sixty (60) days from the day the car arrives at the station, unless otherwise extended by the Zoning Officer.

[Ord. 415 10-29-2003]

§ 21-1317 Vehicle Sales.

The following minimum requirements shall be met for sales of vehicles and similar large items (including, without limitation, automobile, truck, mobile home, boat, and recreational vehicle sales):

(a) Specific parking and loading provisions shall be made in accordance with this Chapter and any special provisions which the Borough deems are essential to carry out the general requirements of Article XIV.

(b) Signs shall be in accordance with this Chapter.

[Ord. 415 10-29-2003]

§ 21-1318 Wholesale and Distribution Activities.

The following minimum requirements shall be met for wholesale and distribution activities:

(a) Truck parking and loading shall meet the minimum standards of this Chapter and, in unique situations, shall be provided according to maximum standards of the industry for the specific type of wholesale or distribution activity to be conducted.

(b) Truck or rail access and operations shall not conflict with the convenience and safety of auto traffic and parking.

[Ord. 415 10-29-2003]

§ 21-1319 Membership Club or Lodge.

The following minimum requirements shall be met for a membership club or lodge:

(a) There shall be the minimum lot size.

(b) Any outdoor play areas shall be screened to protect the neighborhood from any possible noise and shall be located no closer to any lot line than the required front yard depth.

(c) Adequate police protection shall always be provided, with Council having the authority to specify the cost to the operators of the club.

[Ord. 415 10-29-2003]

§ 21-1320 Motor Vehicle Repair Shop.

The following minimum requirements shall be met for a motor vehicle repair shop:

(a) All repair and paint work shall be performed within an enclosed building.

(b) All provisions shall be made to prevent or minimize noise, odor, vibration, light, or electrical interference to adjacent lots.

(c) Buffer yard requirements of Article XV shall be met.

(d) Outdoor storage of autos and other vehicles shall only be back of the front building line and shall be no closer than twenty (20) feet from side and rear lot lines.

(e) No particular vehicle or part of a vehicle may be located outside of an enclosed building for more than thirty (30) days or parts of days in any period of ninety (90) consecutive calendar days, except vehicles utilized by owners or employees of the motor vehicle repair shop to commute to the shop and which are not left at the shop overnight.

[Ords. 415 10-29-2003, 449 11-08-2006]

§ 21-1321 Planned Industrial, Office, or Research Park.

The following minimum requirements shall be met for a planned industrial, office, or research park:

(a) Shall contain the minimum lot size.

(b) Shall be totally planned to function as a single development unit.

(c) Shall be in accordance with the performance standards of this Chapter and in accordance with all development standards of Chapter 22 (relating to Subdivision and Land Development).

(d) Shall contain only those individual uses permitted in the district.

[Ord. 415 10-29-2003]

§ 21-1322 Hospital or Nursing Home.

A hospital or nursing home is permitted, *provided* the minimum lot size is three (3) acres and no more than one hundred fifty (150) patients shall be accommodated at any one time.

[Ord. 415 10-29-2003]

§ 21-1323 Cemetery.

A cemetery is permitted *provided* that the minimum lot size is met and buffer yards are provided.

[Ord. 415 10-29-2003]

§ 21-1324 Drive-in or Drive-through Facilities.

In addition to all other applicable requirements of this Chapter, the following requirements shall be satisfied by all uses which provide any goods or services to persons who remain within a vehicle throughout their visit to the subject property:

(a) The subject property shall front on a street designated by the Borough as a collector street.

(b) Access to areas providing such drive-in or drive-through services shall be restricted to two (2) locations on each abutting collector street.

(c) All drive-through lanes shall be separated from the parking lot's interior driveways and shall be clearly marked.

(d) All exterior speakers and microphones shall comply with § 21-915.

[Ord. 415 10-29-2003]

§ 21-1325 Conversion of Single-family Detached Dwelling.

The following requirements shall be met for the conversion of an existing single-family detached dwelling to a two-family detached dwelling or a multifamily dwelling limited to three (3) units:

(a) The property shall comply with the yard and building area requirements for the district.

(b) Required off-street parking shall be available.

(c) The floor area per dwelling unit shall be not less than one thousand two hundred fifty (1,250) square feet.

(d) The Borough Engineer shall assure that adequate water and sewerage facilities are available.

[Ords. 415 10-29-2003, 449 11-08-2006]

§ 21-1326 Commercial Recreation.

Commercial recreation, such as camps, swimming pools, picnic grounds, and fishing, are permitted *provided* the following assurances are given:

(a) There will be maximum public health and safety.

(b) All special state and local permits are issued to conduct one (1) or more of these uses.

[Ord. 415 10-29-2003]

§ 21-1327 Utility Substations.

The following minimum requirements shall be met for utility substations, including accepted easements for local need and serving the Borough:

(a) The substation shall be screened from view by solid and continuous landscaping of massed evergreen and/or deciduous trees and shrubs.

[Ord. 415 10-29-2003]

§ 21-1328 Multifamily Dwellings for the Elderly.

The following minimum requirements shall be met:

(a) A twenty (20) foot buffer yard shall be provided and landscaped in accordance with Article XIV.

(b) Landscaped and grassed sitting and other passive recreation areas shall be provided on the lot.

[Ord. 415 10-29-2003]

§ 21-1329 Mobile Homes, Mobile Home Lots, and Mobile Home Parks.

Mobile homes, mobile home lots, and mobile home parks shall meet the following requirements:

(a) There shall be no more than five (5) mobile homes per acre in a mobile home park.

(b) Mobile home parks shall have a minimum area of ten (10) acres; a minimum public street frontage of five hundred (500) feet; a minimum distance from public street of one hundred (100) feet to the first row of mobile homes; a minimum side yard of fifty (50) feet; a minimum

distance from the rear line of the park to the nearest mobile home of fifty (50) feet; and a maximum height of thirty-five (35) feet for mobile homes.

(c) Mobile home lots located in mobile home parks shall have a minimum area of eight thousand (8,000) square feet; a minimum public street frontage of eighty (80) feet; a minimum front yard setback of twenty-five (25) feet; a minimum side yard of twenty-five (25) feet, a minimum rear yard setback of twenty-five (25) feet; and a maximum height for mobile homes of thirty-five (35) feet.

(d) Dimension requirements for mobile home sites not in mobile home parks shall be those for single family detached dwellings in the zoning district where such mobile home sites are proposed to be developed.

(e) In addition to general regulations in Article IX, the following shall apply to mobile home parks:

(1) Each site shall be served with underground electricity, water, and sewers. The water supply and sewage disposal shall be acceptable to the Pennsylvania Department of Environmental Resources and in conformance with the ordinances and regulations of the Borough.

(2) In all parks accommodating or designed to accommodate twenty-five (25) or more mobile homes, there shall be one (1) or more recreation areas which shall be easily accessible to all homes. The size of such areas shall equal at least two hundred (200) square feet for each mobile home, and no recreation area shall be less than five thousand (5,000) square feet. Such recreational areas shall comply with all ordinances and regulations of the Borough.

(3) Pedestrian walks of portland cement concrete shall be provided between the individual mobile homes, public and private streets, and all community facilities provided for the residents. Such pedestrian walks shall meet all ordinances and regulations of the Borough, including, without limitation, § 56-501 *et seq.* (relating to Sidewalk Specifications).

(4) Streets within mobile home parks shall comply with all ordinances and regulations of the Borough, including, without limitation, § 22-801 *et seq.* (relating to Streets, Curbs, and Sidewalks).

[Ord. 415 10-29-2003]

§ 21-1330 Adult Bookstores, Adult Motion Picture Theaters, Cabarets, and Massage Parlors.

The following minimum requirements shall be met for all adult bookstores, adult motion picture theaters, cabarets, and massage parlors:

(a) No adult bookstore, adult motion picture theater, cabaret, or massage parlor shall be erected, established, or used in any R-1 Low-Density Residential Zoning District, R-2 Medium-Density Residential Zoning District, or R-3 High-Density Residential Zoning District.

(b) No adult bookstore, adult motion picture theater, cabaret, or massage parlor shall be erected, established, or used within one thousand (1,000) lineal feet from the property line of any existing adult bookstore, adult motion picture theater, cabaret, or massage parlor.

(c) No adult bookstore, adult motion picture theater, cabaret, or massage parlor shall be erected, established, or used within five hundred (500) feet from the property line of any school, building used primarily as a place of worship, or playground, or within five hundred (500) feet of the boundary of any other zoning district established by this Chapter.

(d) Council may authorize the establishment of an adult bookstore, adult motion picture theater, cabaret, or massage parlor within five hundred (500) feet from the property line of any school, building used primarily as a place of worship, or playground, or within five hundred (500) feet of any other zoning district established by this Chapter, as a conditional use only if the following findings are made by Council:

(1) That the applicant has presented to Council a petition which indicates approval of the proposed use by fifty-one percent (51%) of the persons eighteen (18) years of age or older, residing or doing business within a radius of five hundred (500) feet of the location of the proposed use. The applicant shall have attempted to contact all eligible locations within this radius and must supply a list of all addresses at which no contact was made. The circulator of the petition shall subscribe to an affidavit attesting to the fact that the circulator personally witnessed the signatures on the petition and that the same were affixed to the petition by the persons whose names appear thereon.

(2) That the proposed use will not adversely affect the safe and comfortable enjoyment of the properties in the neighborhood and will not be detrimental to the general character of the area.

(3) That the establishment of the proposed use in the area will not be contrary to any program of neighborhood conservation and will not interfere with any program of urban renewal.

(4) That the conditions set forth in § 21-1304(a) (relating to General Requirements for Conditional Uses and Special Exception Uses—In General) will be met.

(5) That all other applicable regulations of this Chapter will be observed.

[Ord. 415 10-29-2003]

§ 21-1331 Bed and Breakfast.

The following minimum requirements shall be met for a bed and breakfast:

(a) No more than five (5) guest rooms shall be provided.

(b) Off-street parking spaces as provided in § 21-1415(z) (relating to Off-Street Parking Schedule—Bed and Breakfast Facilities) and subject to the general regulations and provisions set forth in Article XIV (relating to Off-Street Parking and Loading).

(c) At least one (1) bathroom shall be provided for use by guests. A second bathroom shall be provided for use by the owner of the premises and the family of such owner. For purposes of this section, a bathroom shall be deemed to consist of the following minimum fixtures: a commode; window or approved ventilation system; lavatory; shower or bathtub (connected to water supply and sanitary sewage systems, respectively). The fixtures shall be contained in a

room served by at least one (1) light fixture and ground fault electric receptacle, which room is not designed or used as a passage from a second room to a third room.

(d) There shall be no use of show windows or any type of display or advertising visible from outside the premises, except for a single sign no larger than two (2) square feet in size, which is constructed and placed in accordance with Article XVI (relating to Sign Regulations).

(e) No external alterations or changes to the exterior structure shall be permitted except as required by the Pennsylvania Department of Labor and Industry or for safety reasons as required by any other governmental agency.

(f) The use shall be carried on by the owner of the premises or by members of the immediate family of such owner, who must reside on the premises.

(g) There shall be no separate kitchen or cooking facilities in any guest room. Food served to guests on the premises shall be limited to breakfast only. The owner of the facility shall comply with all rules, laws, regulations, or orders of any judicial body or governmental entity having jurisdiction over the facility, including, without limitation, any requirements in connection with preparation and service of food to guests.

(h) The maximum, uninterrupted length of stay at a bed and breakfast shall be fourteen (14) days.

(i) The use of any amenities provided by the bed and breakfast, such as a swimming pool or tennis court, shall be restricted to the guests of the establishment, the owner of the premises, and the owner's family.

(j) The existing sewage system shall be recertified as being adequate, in accordance with state regulations.

[Ord. 415 10-29-2003]

§ 21-1332 Public Storage Facilities.

The following minimum requirements shall be met for public storage facilities:

(a) The minimum yard requirements for all yards along lot lines which adjoin residential uses or districts and for all yards which front on public streets shall be increased by five (5) feet, and a buffer strip shall be installed within such yards which satisfies the conditions of Article XV (relating to Buffer Strips).

(b) Roads and driveways shall be designed and constructed in accordance with Articles VII and VIII of Chapter 22 (relating to Subdivision and Land Development—General Design Standards and Streets, Curbs, and Sidewalks).

(c) There shall be a minimum of one (1) parking space for each storage unit. Parking spaces and areas shall be designed and constructed in accordance with Article XIV (relating to Off-Street Parking and Loading).

(d) The minimum lot size shall be one (1) acre.

(e) No person shall be permitted to store flammable, toxic, explosive, or other hazardous materials, nor shall any meats, animal matter, living animal, foods, or FDA identified controlled substances be stored or kept on the premises.

(f) At least one (1) electric light shall serve each storage unit.

(g) The maximum building height shall be twenty-five (25) feet, and no building shall be more than one (1) story. However, if a residential dwelling unit is approved under subsection (h), the dwelling unit may constitute the second story of a building, and the maximum height of the portion of any building which contains a residential dwelling unit shall be thirty-five (35) feet. All other dimensional requirements of the zoning district shall be met.

(h) There shall be a functioning security system in place at all times and the owner, or his designated agent, shall be available to supervise the premises at all hours. The owner shall provide to the Alburts Police Department his name, address, and telephone numbers, and the name, address, and telephone numbers of his agent, if any, in charge of the facility. The owner shall be responsible for keeping such information current while such public storage facility is used. Telephone numbers provided shall enable the Alburts Police Department to reach such owner and agent directly twenty-four (24) hours each day. If approved by Council on conditional use review, the facility may include one (1) residential dwelling unit for the sole use of the owner or his designated facility supervisor or manager and his family.

(i) All items of personal property shall be stored within an enclosed building on the premises, *provided*, however, that recreational vehicles, boats, trailers, and other motor vehicles may be stored on the premises outside an enclosed building under screened conditions. Such screening must consist of a wall, fence, or buffer strip which, in the judgment of Council, shall keep such personal property from public view on adjacent streets and properties.

[Ord. 415 10-29-2003]

§ 21-1333 Drive-In, Drive-Through, and/or Fast Food Restaurants.

The following minimum requirements shall be satisfied for drive-in, drive-through, and/or fast food restaurants:

(a) The subject property shall front on a street designated by the Borough as a collector street.

(b) Exterior trash receptacles shall be provided and routinely emptied so as to prevent the scattering of litter. Such trash receptacles shall be emptied into a central trash storage receptacle, or dumpster, which shall be kept behind the restaurant and out of public view in a walled or fenced area under lock. Such walls or fences shall be at least eight (8) feet in height. All applications shall include a description of a working plan for the clean-up of litter.

(c) All exterior seating or play areas shall be completely enclosed by a three-foot-high fence. No exterior seating or play area shall be located within fifty (50) feet of any lot which is used for residential purposes or is located in a residential zoning district, and no exterior seating or play area which is located within one hundred (100) feet of any lot which is used for residen-

tial purposes or is located in a residential zoning district shall be used after dusk or before 9:00 A.M.

- (d) Access points shall be limited to two (2) on each collector street abutting the lot.
- (e) On-lot traffic circulation channels and parking areas shall be clearly marked.
- (f) No outdoor storage shall be permitted.

[Ord. 415 10-29-2003]

§ 21-1334 Neighborhood Convenience Stores.

The following minimum requirements shall be satisfied for neighborhood convenience stores:

(a) Neighborhood convenience stores shall be located only on streets designated by the Borough as collector streets.

(b) The proposed neighborhood convenience store shall be designed for sales of goods for personal or household uses. No vehicular uses, other than the sale of gasoline and other automotive fluids and accessories, shall be permitted nor shall adult-related uses be permitted on the premises.

(c) All activities except those to be performed at the fuel pumps and/or air pumps, if any, shall be performed within a completely enclosed building.

(d) Other than cars of employees of the store, no vehicle shall be parked on the premises for more than one (1) hour.

(e) There shall be provided the following minimum parking spaces: one (1) parking space for each employee, one (1) parking space for each gasoline fueling position and for each air pump, plus one (1) parking space for each one hundred fifty (150) square feet of usable retail sales area or fraction thereof. The area provided at each gasoline fueling position for a vehicle to park while refueling shall count as one (1) parking space so long as it satisfies the minimum dimensional requirements for a parking space. For purposes of this subsection, the term “usable retail sales area” shall mean the interior area of a structure or building utilized for retail sales and readily accessible to customers, excluding restrooms.

(f) Fuel pumps, if any, shall be located at least twenty-five (25) feet from any street right-of-way.

(g) No outdoor storage shall be permitted. Dumpsters shall be enclosed out of public view by an eight (8) foot high wall or fence kept under lock.

[Ord. 415 10-29-2003]

§ 21-1335 Commercial Communications Towers and Commercial Communications Antennas.

The following minimum requirements shall be satisfied by a Commercial Communications Tower and, to the extent applicable under this Section, by a Commercial Communications Antenna:

(a) **Purpose.** The purpose of this Section is to provide a uniform and comprehensive set of standards for the development and installation of new Commercial Communications Towers and Commercial Communications Antennas. The regulations contained herein are designed to protect and promote public health, safety, and the general welfare of the community while ensuring that new Commercial Communications Towers will be safe and be placed in suitable locations and at the same time not unduly restricting the development of needed telecommunications facilities. These regulations will also help to ensure that the Borough's land use regulations comply with the Federal Telecommunications Act of 1996. The regulations shall be applied to accomplish the following objectives:

(1) Minimize adverse visual effects of Commercial Communications Towers and Commercial Communications Antennas and related facilities through design and siting standards.

(2) Maintain and ensure that a non-discriminatory, competitive, and broad range of telecommunications services and high quality telecommunications infrastructure consistent with the Federal Telecommunications Act of 1996 are provided to serve the community, as well as serve as an important and effective part of the Borough's emergency services network.

(3) Provide requirements necessary for obtaining approval to site and construct Commercial Communications Towers and Commercial Communications Antennas while at the same time protecting the legitimate interests of Borough residents.

(4) Protect environmentally sensitive areas of the Borough by regulating the location, design, and operations of telecommunications facilities.

(5) Encourage the use of alternative support structures, co-location of new antennas on existing commercial communications towers, camouflaged towers, monopoles, and construction of towers with the ability to locate three or more providers.

(b) **Demonstration of Need.** Each person applying to establish or modify a Commercial Communications Tower or Commercial Communications Antenna must prove that the facility is Essential.

(c) **Consideration of Alternate Sites.**

(1) **Identification.** Each person applying to establish or modify a Commercial Communications Tower or Commercial Communications Antenna must identify all Alternate Sites for the proposed location, and all other potential sites for a Commercial Communications Tower and/or Commercial Communications Antenna which the applicant believes do not qualify as Alternate Sites (together with the reasons for the applicant's conclusion).

(2) **Preferred Use of Existing Structures.** Council shall deny an application to construct, enlarge, or extend a Commercial Communications Tower if its antennas and proposed antennas can be mounted on an existing structure(s) at an Alternate Site(s).

(3) **Lesser Adverse Impact at an Alternate Site.** Council may deny an application to establish or modify a Commercial Communications Tower or Commercial Communications Antenna if it finds that there would be a lesser negative impact on the public health, safety, and/or general welfare if a Commercial Communications Tower(s) and/or a Commercial Communications Antenna(s) were established at an Alternate Site(s).

(d) Nonresidential Placement.

(1) **Commercial Communications Antenna.** A Commercial Communications Antenna may not be placed on any residential structure or on any structure located on a lot which is used in whole or in part for residential purposes.

(2) **Commercial Communications Tower.** A Commercial Communications Tower may not be placed—

(A) on any lot which is used in whole or in part for residential purposes; or

(B) on any lot in a Residential Zoning District (R-1, R-2, or R-3) which is unused or which is used, in whole or in part, for any purpose other than as a church or other place of worship, park or recreational facility, library, public or private educational institution, hospital, governmental use, and/or utility use.

(e) **Height.** The height of a Commercial Communications Tower or a Commercial Communications Antenna may not exceed the *greater* of—

(1) the maximum height requirement for the zoning District in which the facility is located; or

(2) the height of the lowest Commercial Communications Tower or Commercial Communications Antenna, as the case may be, which can serve the Essential Service Area from that location.

(f) **Setback.** A Commercial Communications Tower shall be setback from the nearest property or lease lot lines and existing street right-of-way lines a minimum distance equal to the *greater* of the radius of the Fall Zone of the Commercial Communications Tower or the applicable setback line for the zoning District.

(g) Fencing & Landscaping.

(1) **In General.** Except as otherwise provided in this subsection (g), fencing and landscaping shall surround all ground-level features, including any Commercial Communications Tower and any buildings or structures associated with the operation or maintenance of a Commercial Communications Tower and/or Commercial Communications Antenna.

(2) **Exemption.** Council may exempt a Commercial Communications Antenna from any of the requirements of this subsection (g) if the Antenna is mounted on an existing structure, all equipment associated with the operation and maintenance of the Antenna is housed inside an existing structure, and the applicant proves that a fence and landscaping are unnecessary in the particular situation because the safety and visual protections generally provided by a fence and landscaping are satisfied in some other manner.

(3) **Fence.** A fence under this paragraph shall be secure and at least eight (8) feet in height above ground level at all locations.

(4) **Landscaping—In General.** An evergreen screen shall surround the fence, unless the Commercial Communications Tower or Commercial Communications Antenna is located in the L-1 Light Industrial–Office Research District. (*But see* the buffer strip requirements for the L-1 District in Article XV, which remain applicable.) The screen can be either a hedge (planted 3 feet on center maximum) or a row of evergreen trees (planted 10 feet on center maximum), shall be a minimum height of six (6) feet at planting, and shall grow to a minimum of fifteen (15) feet at maturity. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.

(5) **Alternatives to Evergreen Screen.** Any combination of existing vegetation, topography, walls, decorative fences, or other features may be permitted *in lieu of* the landscaping required under this subsection (g), if Council determines that they achieve the same degree of visual screening.

(h) **Parking.** A minimum of two (2) off-street parking spaces shall be provided for a Commercial Communications Tower. Council shall determine whether zero (0), one (1), or two (2) additional off-street parking spaces are necessary to service and maintain a Commercial Communications Antenna which is attached to a structure other than a Commercial Communications Tower.

(i) **Equipment Shelter.**

(1) **In General.** Except as provided in paragraph (2), all equipment, supplies, and materials which are to be kept on-site to service a Commercial Communications Tower or Commercial Communications Antenna shall be stored in an enclosed building or other structure.

(2) **Emergency Backup Generator.** One emergency backup generator for use only in the event of a power failure may be kept on-site outside of an enclosed building or other structure.

(3) **Required Information.** Each person applying to establish or modify a Commercial Communications Tower or Commercial Communications Antenna shall provide detailed information about the contents of any equipment shelter or equipment room to service the facility. The information shall include, without limitation, the type and quantity of oil, gasoline, batteries, propane, natural gas, or any other fuel stored within the shelter.

(4) **Hazardous Materials.** The applicant shall demonstrate that any hazardous materials stored on-site shall be housed so as to minimize the potential for any adverse impact on nearby land uses. Materials Safety Data Sheets for all hazardous materials stored or utilized in the equipment shelter or room shall be submitted to the Borough and the Alburdis Fire Company. The use of fuels and hazardous materials shall be subject to all applicable federal, state, and local laws and regulations.

(j) **Wind Resistance.** Each person applying to establish or modify a Commercial Communications Tower or Commercial Communications Antenna shall provide a certification from a registered professional engineer stating that the Commercial Communications Tower or Commercial Communications Antenna satisfies the wind resistance requirements provided in Chapter

30 (relating to Uniform Construction Code). The registered professional engineer shall also certify to the overall structural integrity of the facility.

(k) Visual Impact Analysis.

(1) Requirement. Each person applying to establish or modify a Commercial Communications Tower or Commercial Communications Antenna shall submit a visual impact analysis to the Borough.

(2) Contents. The visual impact analysis shall be in the form of a written report, and shall include, without limitation, the following:

(A) a photograph simulation of pre-development versus post-development views from key viewpoints, as established by the Borough, both inside and outside of the Borough.

(B) an analysis of Alternative Tower Structure design and color schemes.

(C) an analysis of the visual impact of the tower base, accessory buildings, and overhead utility lines from abutting properties and streets.

(D) at the discretion of the Borough, an additional simulation of the facility's visual impact shall be provided by erecting a mechanical construction crane to the proposed height of the facility at the proposed project site. The applicant shall allow the viewing of the crane simulation by the appropriate Borough officials and interested parties at a reasonable day and time as established by the Borough.

(E) an assessment of the cumulative impacts of the proposed or modified facility and other existing and foreseeable Commercial Communications Towers and Commercial Communications Antennas in the area.

(F) a description of all feasible measures necessary to mitigate any negative visual impact by the proposed or modified facility, consistent with the technological requirements of the applicant.

(G) a similar analysis of the visual impact of a similar facility at each Alternate Site.

(3) Costs. All costs for the visual impact analysis, and applicable administrative costs, shall be borne by the applicant.

(4) Remediation. The applicant shall implement all reasonable measures necessary to mitigate any negative visual impact created by the proposed facility, as determined by Council after the hearing.

(l) National Environmental Policy Act (NEPA). Each person applying to establish or modify a Commercial Communications Tower or Commercial Communications Antenna shall demonstrate that all NEPA requirements, where applicable, for the proposed facility have been satisfied. A copy of the NEPA-required Environmental Assessment (EA) report shall be submitted when the proposed facility falls into one or more of the following categories:

(1) Facilities that are to be located in an officially designated wilderness area.

(2) Facilities that are to be located in an official designated wildlife preserve.

(3) Facilities that may affect listed threatened or endangered species or designated critical habitats.

(4) Facilities that are likely to jeopardize the continued existence of any proposed endangered or threatened species or likely to result in the destruction or adverse modification of proposed critical habitats, as determined by the Secretary of the Interior pursuant to the Endangered Species Act of 1973.

(5) Facilities that may affect districts, sites, buildings, structures, or objects, significant in American History, architecture, archaeology, engineering, or culture, that are listed, or are eligible for listing, in the National Register of Historic Places.

(6) Facilities that may affect a Native American religious site.

(7) Facilities whose construction will involve significant change to surface features including, but not limited to, wetlands, deforestation or water diversion.

(8) Facilities located within a flood plain.

(9) Facilities that are to be equipped with high intensity white lights located in residential neighborhoods.

The applicant shall notify the Borough at least thirty (30) days prior to any hearing or consideration of the Environmental Assessment report by the FCC. The applicant shall provide the Borough with documentation demonstrating how any negative impact on the features noted above will be mitigated.

(m) Federal Communications Commission (FCC).

(1) **In General.** Each person applying to establish or modify a Commercial Communications Tower or Commercial Communications Antenna shall provide the Borough with documentation that the operator of the facility is appropriately licensed by the FCC and that the proposed facility has been approved by the FCC.

(2) **EMF/RF Exposure.** Except as provided in paragraph (3), each person applying to establish or modify a Commercial Communications Tower or Commercial Communications Antenna shall provide the Borough with documentation demonstrating that the proposed facility complies with all applicable standards established by the FCC governing human exposure to electromagnetic or radio frequency radiation. The operator of the facility shall update this documentation annually thereafter, and shall provide additional reports in the interim if the operator becomes aware of any changes to the most recent information provided. The Borough may secure, at the operator's expense, the services of a qualified independent radio frequency engineer to review the documentation and conduct tests as necessary to verify said documentation and report whether the facility conforms to all FCC standards.

(3) **Exceeding FCC EMF/RF Exposure Standards.** Any person who applies to establish or modify a Commercial Communications Tower or Commercial Communications Antenna which exceeds FCC standards regarding human exposure to electromagnetic or radio frequency radiation shall submit to the Borough a copy of the Environmental Assessment report required under NEPA prior to submitting an application for the site to the FCC, so that the Borough may review the report and provide commentary to the FCC for its consideration.

(n) Federal Aviation Administration (FAA).

(1) **Height.** Each person applying to establish or modify a Commercial Communications Tower or Commercial Communications Antenna shall provide—

(A) documentation of FAA approval for Commercial Communications Towers or Commercial Communications Antennas whose height is greater than or equal to two hundred (200) feet, *or*

(B) proof that any Commercial Communications Tower or Commercial Communications Antenna less than two hundred (200) feet in height satisfies the requirements of 14 CFR Part 77.13(a).

(2) **Lighting.** No Commercial Communications Tower or Commercial Communications Antenna shall be artificially lighted except when required and approved by the FAA.

(o) **Airport Coordination.** Each person applying to establish or modify a Commercial Communications Tower or Commercial Communications Antenna shall notify each airport located within a five (5) mile radius of the proposed facility of its application to establish or modify such facility, and the date of the hearing before Council, with a request to submit any comments to the Borough before the hearing.

(p) **Annual Inspection.** Each year, on or about the anniversary of the date that a given Commercial Communications Tower or Commercial Communications Antenna first became operational, the Borough shall perform an inspection of the facility to verify that it satisfies the requirements of this Chapter and the conditions of its approval. The costs of the inspection shall be paid by the operator of the facility or, in default thereof, the landowner of the property on which it is located.

(q) **Co-location.** Every person granted approval to establish or modify a Commercial Communications Tower or Commercial Communications Antenna shall grant any other person the right to co-locate a Commercial Communications Antenna on the same facility and/or extend the facility and co-locate a Commercial Communications Antenna on the facility as extended, *provided that* the co-location can be accomplished without adverse effect to any pre-existing Commercial Communications Antenna, and that the other person provide commercially reasonable compensation for the right so granted.

(r) **Removal.** If a Commercial Communications Tower or Commercial Communications Antenna remains unused for a period of at least eighteen (18) consecutive months, the owner or operator shall immediately dismantle and remove the facility.

(s) **Security.** Each person granted approval to establish or modify a Commercial Communications Tower or Commercial Communications Antenna shall post and maintain security with the Borough, in a form acceptable to the Borough, in an amount sufficient to cover the removal of the facility and site restoration. The Borough may draw against the security to remove the facility and restore the site if the owner or operator of the facility fails to do so within eighteen (18) months after the use of the facility ceased.

(t) **Wireless Broadband Collocation Act.** Notwithstanding anything to this contrary in this Chapter, any application for replacement, collocation, or modification of a wireless telecommunications facility or wireless support structure (including, but not limited to, Commercial Communications Towers and Commercial Communications Antennas), shall be subject to the

limitations, procedures, time restrictions, and other requirements imposed upon municipalities by the Wireless Broadband Collocation Act, 53 PA. STAT. ANN. § 11702.1 *et seq.*

[Ords. 415 10-29-2003, 519 03-12-2014]