

ARTICLE 4

OVERLAY ZONING DISTRICTS

§ 208-401. Overlay Zoning Districts.

A. Purpose and Intent. The purpose of Article 4 of this Chapter is to:

- (1) Provide a framework for enabling legislation to aid in the creation of various overlay zoning districts each with special regulations, requirements, and standards;
- (2) Provide a description of special regulations, requirements, and standards associated with each overlay zoning district; and
- (3) Provide regulations and standards for the application of each overlay zoning district created to assure conformity with the purpose and development objectives of the applicable overlay zoning district.

B. General Provisions.

- (1) Article 4 of this Chapter establishes overlay zoning districts that include additional specific regulations, requirements, and standards of limited application to certain designated areas within Lower Moreland Township.
- (2) Overlay zoning districts provide additional regulations for development within specific designated areas of Lower Moreland Township, that are identified as possessing special or unique conditions, characteristics, circumstances, or resources of importance, interest, or value to Lower Moreland Township. Such overlay zoning districts are established for the purposes of protecting the health, safety and general welfare, and furthering the most recent version of the Lower Moreland Township community development objectives or any applicable plan adopted by the LMT BOC set forth in Article 1 of this Chapter relating to *Purpose of Enactment (§ 208-103.)*.
- (3) Overlay zoning districts may encompass one (1) or more applicable base zoning districts, or in some instances other overlay zoning districts, and impose more or less, or different regulations, requirements, and standards than those which are required by the applicable base zoning districts or overlay zoning districts.
- (4) Applications for development are subject to the provisions of the applicable base zoning district and the overlay zoning district.
- (5) Although overlay zoning districts may be more or less restrictive than the applicable base zoning district, unless otherwise specified in Article 4 of this Chapter for the applicable overlay zoning district, wherever and whenever the regulations, requirements, and standards of overlay zoning districts are at variance with the regulations, requirements, and standards of applicable base zoning districts, the most restrictive, or that imposing the higher standards shall govern development.

C. Designation and Purpose Statements – Overlay Zoning Districts. See Table 4-1.1 in this subsection below for the designations and purpose statements of the applicable Overlay Zoning Districts which are shown on the Official Zoning Map listed in Article 1 of this Chapter relating to *Zoning Districts and Official Zoning Map (§ 208-106.)*:

**TABLE 4-1.1
 DESIGNATION AND PURPOSE STATEMENTS –
 OVERLAY ZONING DISTRICTS**

OVERLAY ZONING DISTRICT NAME/MAP SYMBOL	PURPOSE STATEMENT
Floodplain Conservation Overlay Zoning District / O-FC (formerly Floodplain Conservation District)	See Chapter 108 of the LMT Codified Ordinances relating to Floodplain Conservation and Damage Prevention.
Historic District Overlay Zoning District/O-HD (new)	See Chapter 24 of the LMT Codified Ordinances relating to the Historic District.
Transit Oriented Development Overlay Zoning District/O-TOD (new)	To: <ul style="list-style-type: none"> • Encourage development and redevelopment of land within a quarter (1/4) mile to SEPTA’s Philmont and Bethayres Stations in the MU-REV for a variety of retail, commercial, office and personal services in either an individual or mixed use configuration, including higher density residential uses; • Promote increased public transit ridership as an alternative to total reliance on the automobile for a variety of trip purposes; • Create a pedestrian-friendly environment to encourage walking, bicycling and transit use, and provide an alternative to traditional development by emphasizing mixed use, pedestrian-oriented development; • Create a neighborhood identity that promotes pedestrian activity, human interactions, safety and livability; • Encourage building reuse and infill; and • Provide a range of housing options for people of different income levels and at different stages of life.
Airport Overlay Zoning District/O-AP (new)	To: <ul style="list-style-type: none"> • Create an overlay zoning district that considers safety issues around the Northeast Philadelphia Airport (PNE); • Regulate and restrict the heights of established uses, constructed structures, and objects of natural growth; • Create appropriate related surface zones, establishing the boundaries thereof and providing for changes in the restrictions and boundaries of such surface zones; and • Create a permitting process for certain uses, structures, and objects within said related surface zones.

D. Overlay Zoning District Regulations. The specific regulations and standards for the applicable overlay zoning district are listed in the following Sections.

§ 208-402. Floodplain Conservation Overlay Zoning District/O-FC.

- A. Reference. See Chapter 108 of the LMT Codified Ordinances relating to Floodplain Conservation and Damage Prevention.
- B. Deviations from the standards and requirements listed in Chapter 108 shall be processed and approved according to the provisions set forth in Chapter 108.

§ 208-403. Historic District Overlay Zoning District/O-HD.

- A. Reference. See Chapter 24 of the LMT Codified Ordinances relating to the Historic District.
- B. Deviations from the standards and requirements listed in Chapter 24 that are processed and approved according to the provisions set forth in Chapter 24, shall not require the applicant to request and obtain approval of a variance according to the provisions for a variance set forth in Article 9 this Chapter relating to *Variances in Zoning Hearing Board's Functions (§ 208-905.B.)*.

§ 208-404. Transit Oriented Development Overlay Zoning District/O-TOD.

- A. Applicability. Except where this Section otherwise specifies below, all the regulations, requirements, and of the applicable base zoning district shall apply.
- B. Permitted Uses – O-TOD. In addition to the uses permitted in the applicable base zoning districts, see Table 4-4.1 in this subsection below for additional uses permitted in the O-TOD as set forth by this Chapter. Uses are divided into those Permitted by Right listed as “P” (zoning decision by Township Zoning Officer); Permitted by Special Exception listed as “SE” (zoning decision by the LMT ZHB); and Permitted by Conditional Use listed as “CU” (zoning decision by the LMT BOC). Uses not listed in Table 4-4.1. below or identified by “NP” shall specifically not be permitted in the O-TOD:

**TABLE 4-4.1
 PERMITTED USES – O-TOD:**

USE	NAICS CODE	O-TOD (new)	SEE ARTICLE 5, 8, OR ELSEWHERE OF THIS CHAPTER FOR ADDITIONAL SPECIFIC USE REGULATIONS
RESIDENTIAL USES			
Multi-Family Dwelling	N/A	P	N/A
Multi-Modal Development	N/A	CU	§ 208-404.E(6)

- C. Prohibited Uses – OTOD. See Table 4.4-2 in this subsection below for uses prohibited in the O-TOD as set forth by this Chapter. Uses identified by “NP” shall specifically not be permitted in the O-TOD:

**TABLE 4-4.2
 PROHIBITED USES – O-TOD:**

USE	NAICS CODE	O-TOD (new)	SEE ARTICLE 5, 8, OR ELSEWHERE OF THIS CHAPTER FOR ADDITIONAL SPECIFIC USE REGULATIONS
NON-RESIDENTIAL USES			
Retail Trade - Sectors 44 - 45			
Motor Vehicle and Parts Dealers	441	NP	N/A
Gasoline Stations (Fueling Stations)	447	NP	N/A
Other Services, except Public Administration - Sector 81			
Parking Lots	81293	NP	N/A
SPECIFIC ACCESSORY USES			
Drive-Thru Facilities for Permitted Use	N/A	NP	N/A
Outside Storage	N/A	NP	N/A

- D. Density, Floor Area, and Dimensional Requirements – O-TOD. See Table 4-4.3 in this subsection below for the density, floor area, and dimensional requirements (lot, setback, and bulk) for all development activities and uses within the O-TOD:

**TABLE 4-4.3
 DENSITY, FLOOR AREA, AND DIMENSIONAL REQUIREMENTS – O-TOD**

USE	O-TOD
DENSITY REQUIREMENTS	
Maximum Net Density (Based on Public Water & Public Sewer Service)	Tracts less than 10 acres: 12
	Tracts 10 acres or more: 15
FLOOR AREA REQUIREMENTS	
Maximum Floor Area Ratio	1.5
LOT REQUIREMENTS	
Maximum Lot Coverage	

USE	O-TOD
Single Residential Development or Mixed Residential Development	80%
Non-Residential Development or Mixed Use Development	85%
SETBACK REQUIREMENTS	
Minimum Side Setback	
All Permitted Uses	15 ft. each side; or 50 ft. if adjoining a Residential Zoning District ¹
Accessory Use or Structure	Unless specified elsewhere in this Chapter including Articles 5, 6, 7, or 8 shall have the same minimum setback as the principal use.
Minimum Rear Setback	
All Permitted Uses	15 ft.; or 50 ft. if adjoining a Residential Zoning District ¹
Accessory Use or Structure	Unless specified elsewhere in this Chapter including Articles 5, 6, 7, or 8 shall have the same minimum setback as the principal use.
BULK REQUIREMENTS	
Maximum Building Coverage	
Single Residential Development or Mixed Residential Development	65%
Non-Residential Development or Mixed Use Development	70%
Accessory Use or Structure	The total building coverage of all accessory buildings and other similar roofed structures shall not exceed the building coverage of the principal building.

NOTES:

1 Any required additional setback shall include required screening, buffering, and buffer yards.

E. Additional Layout, Design, and Other Standards – O-TOD. The following additional layout, design, and other standards and regulations shall apply within the O-TOD:

(1) Percentage of Gross Floor Area. See Table 4-4.4 in this subsection below for the percentage requirements of the gross floor area for all development activities and uses within the O-TOD:

**TABLE 4-4.4
 GROSS FLOOR AREA REQUIREMENTS – O-TOD**

USE	AMOUNT OF TOTAL FLOOR AREA OF A DEVELOPMENT	
	MINIMUM	MAXIMUM
Residential Uses on lots of 43,560 sq. ft. or more	N/A	67%
Non-Residential Uses on lots of 43,560 sq. ft. or more	33%	N/A
All development on lots of less than 43,560 sq. ft.	N/A	

- (2) Retail Use (Retail Trade - Sectors 44–45) Regulations. Where a proposed development includes an individual retail establishment as:
 - (a) The sole use of a building, the maximum size of each individual retail unit of occupancy shall be ten thousand (10,000) square feet of gross floor area; and
 - (b) One (1) of the uses of a building with multiple units of occupancy, there shall not be a maximum size for each individual retail unit of occupancy.
- (3) Side Setback Alteration. The required minimum side setback may be reduced if a written agreement in language and a form acceptable to, and approved by the Township of Lower Moreland, exists between the affected property owners allowing a lesser distance. Such agreement shall be recorded with the Montgomery County of Recorder of Deeds, and shall be binding on all future property owners, heirs and assigns of both properties.
- (4) Buildings and Structures.
 - (a) Building/Structure Height Compatibly Requirement. In addition to the maximum building/structure height requirements of the applicable zoning district, where a building/structure is located a distance of less than one hundred fifty (150) feet of other buildings on lots along the same shared block face (between two [2] intersecting streets) along the same side of the street, the maximum height of the building/structure shall be thirty (30) feet higher than the height of highest adjacent building.
 - (b) Each principal building shall have a minimum of one (1) principal public pedestrian entrance on the ground floor portion of the building façade, oriented towards the adjoining street line or transit station.
- (5) Parking Requirements.
 - (a) Parking Ratios. See Table 4-4.5 in this subsection below for the minimum and maximum parking ratios within the O-TOD:

**TABLE 4-4.5
 PARKING RATIOS – O-TOD**

USE	NAICS	MINIMUM NUMBER OF REQUIRED PARKING SPACES	MAXIMUM NUMBER OF PARKING SPACES
RESIDENTIAL USES			
Apartment	N/A	See Article 6 of this Chapter relating to <i>Parking Ratios</i> in <i>Parking Requirements</i> (§ 208-603.C.).	The maximum number of parking spaces permitted per use shall be equal to the minimum number of required parking spaces for the applicable use.
Multi-Family Dwelling (includes conversion)	N/A	See Article 6 of this Chapter relating to <i>Parking Ratios</i> in <i>Parking Requirements</i> (§ 208-603.C.).	The maximum number of parking spaces permitted per use shall be equal to the minimum number of required parking spaces for the applicable use.
NON-RESIDENTIAL USES			
Non-Residential Uses less than 1,000 sq. ft. GFA	See applicable use.	1 per 500 sq. ft. GFA	1 per 330 sq. ft. GFA

(b) Bicycle Parking. A minimum of one (1) bicycle space shall be provided for each fifteen (15) non-residential vehicle parking spaces provided, as set forth in Article 6 of this Chapter relating to *Bicycle Parking Facilities* in *Parking or Storage of Certain Vehicles* in *Additional Parking Requirements* in *Parking Requirements* (§ 208-603.B.(3)(c)).

(c) Parking Lot Landscaping. A minimum of fifteen (15) percent of any parking lot shall be devoted to landscaping, inclusive of required trees.

(6) Multi-Modal Development.

(a) The residential and non-residential uses permitted in a Multi-Modal Development are as set forth in Sections 303.B and 208-404.B.

(b) The maximum allowable building height shall be sixty-five (65) feet, but no greater than five (5) stories above ground (exclusive of any full or partial basement), provided that the lot on which such building is located is not adjoining a residential zoning district.

(c) In addition to the maximum net density allowable under Section 208-404.D of the Zoning Ordinance for Mixed Use Developments, a Multi-Modal Development shall be eligible for the following net density bonuses:

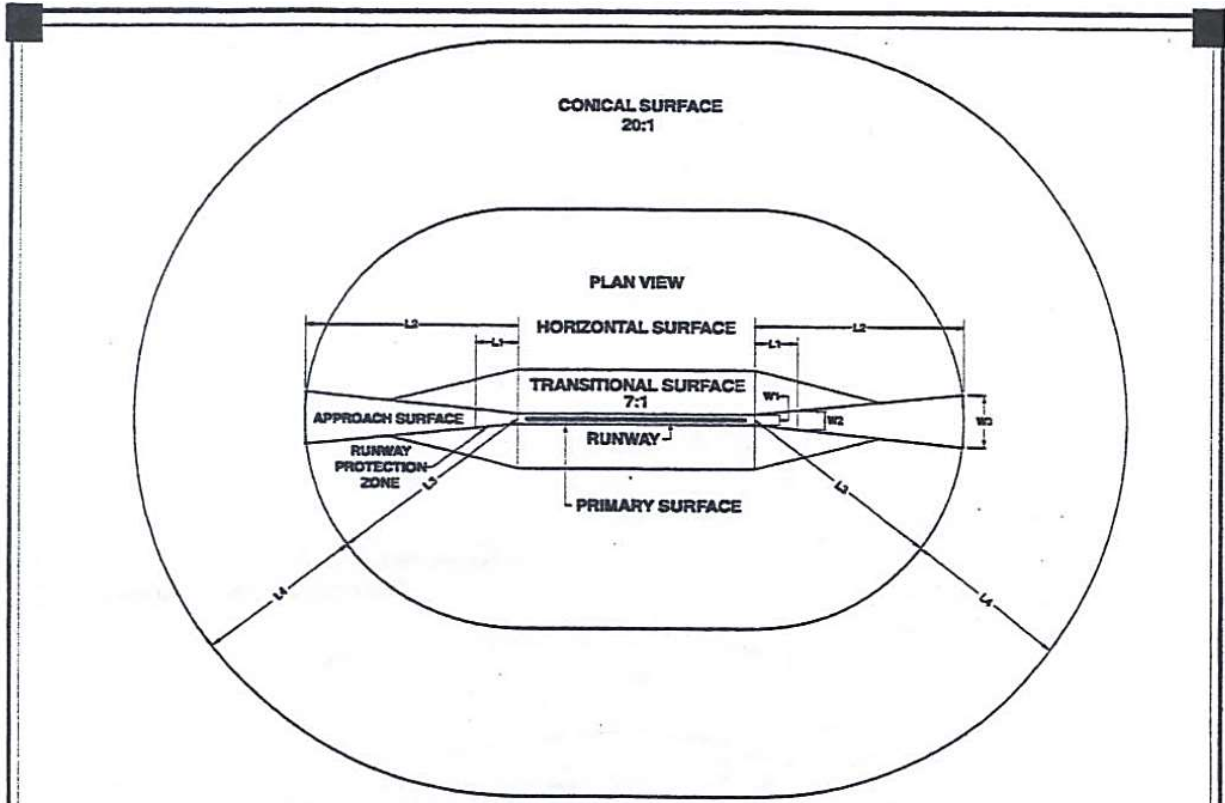
- [1] Net Density Bonus for Transportation Improvements, as defined and permitted in Section 208-303.D(4)(e) of the Zoning Ordinance or by providing a fee-in-lieu of the installation of the transportation improvements based on the proposed number of dwelling units and the traffic impact of the Development on the functioning of adjacent road and intersections as determined by the Lower Moreland Township Board of Commissioners during the Conditional Use hearing process.
 - [2] An additional net density bonus of five (5) units per acre, where land is set aside to guarantee the construction of a parking garage of at least 250 spaces in addition to the required parking for the Multi-Modal Development, so as to accommodate commuters utilizing the SEPTA rail line (“Commuter Parking Garage”). All required parking including the Commuter Parking Garage shall be subject to approval as part of the conditional use hearing. As part of the conditional use hearing, the Board of Commissioners may, as to the proposed Commuter Parking Garage, grant/require one of more of the following:
 - [a] Waive the additional front yard setback set forth in Section 208-303.D(4)(b)[1][a] of the Zoning Ordinance.
 - [b] Increase the permitted height of the Commuter Parking Garage up to fifty (50) feet.
 - [c] Eliminate any side or rear yard setback if the Commuter Parking Garage is adjacent to a railroad right-of-way.
 - [d] Require surface parking lots servicing the SEPTA rail line commuters lose one parking space for each space built in the Commuter Parking Garage as part of the Multi-Modal Development.
 - [3] An additional net density bonus of ten (10) units per acre where a residential parking garage is provided in lieu of surface parking, and which results in a 25% reduction from the maximum allowable lot coverage and where electric charging stations are installed on site and solar energy is incorporated into the garage design and construction.
 - [4] An additional net density bonus of five (5) units per acre provided that;
 - a) the proposed stormwater system assumes that the site is forty percent (40%) meadow condition; b) stormwater improvements including stream restoration, basin construction or retrofit and green rooftops are made either on or off site within the Huntingdon Valley Creek Watershed, or a fee in lieu of stormwater management is made as determined by the Board of Commissioners.
- (d) There shall be no maximum front yard setback from Philmont Avenue if open space with a minimum width of fifty (50) feet from the ultimate right-of-way of

Philmont Avenue is provided along the entire frontage of the right-of-way except for driveway entrances/exits. Best Management Practices stormwater facilities, as permitted under Chapter 172 of the Township Code, may be located within this required open space along the Avenue, so long as this open space remains available for active or passive recreational enjoyment by the residents of the development.

- (e) The minimum open space requirement for a Multi-Modal Development can be reduced from twenty (20) percent to ten (10) percent if an applicant is providing private common areas for use by residents of the Multi-Modal Development, such as, by way of example, swimming pool, sundeck, clubhouse, courtyard, plaza, or other similar common area amenities for the residents. Such amenities shall be approved by the Board of Commissioners as part of the conditional use hearing and the applicant shall have the burden to demonstrate that the proposed amenities justify the ten (10) percent open space reduction.
- (f) The required parking lot landscaping shall be permitted to include landscaping within fifteen (15) feet of the parking lot area (including landscaping located within adjacent open space areas).
- (g) The percentage requirements of the gross floor area for a Multi-Modal Development in the O-TOD shall be as set forth in Section 208-404.E(1) of the Zoning Ordinance. The gross floor area of any Commuter Parking Garage shall count toward the non-residential total gross floor area under Section 208-404.E(1). The gross floor area of any proposed residential garage servicing the residential uses within the Multi-Modal Development shall not be counted toward the residential or non-residential total gross floor area under Section 208-404.E(1). The gross floor area maximum and minimum requirements of Section 208-404.E(1) shall not apply to a residential garage servicing the residential use within the Multi-Modal Development if the residential garage provides the required number of parking spaces for the residential component of the Multi-Modal Development use. The gross floor area percentage requirements shall be calculated by including the building gross floor areas of the uses on land in the Transit Oriented Development (O-TOD) overlay zoning district up to 1400 feet from the subject site's boundaries so long as a minimum 3,000 square feet retail establishment is part of the approved development.
- (h) As part of the conditional use hearing for a Multi-Modal Development in the O-TOD, the Board of Commissioners may eliminate or reduce the required vegetation buffer around a watercourse under Section 208-303.D(4)(c)[3] of the Zoning Ordinance.
- (i) The permitted density requirements, lot requirements, setback requirements, bulk requirements (including but not limited to building coverage), floor area requirements (including but not limited to floor area ratio), open space and buffer requirements shall be based on the existing overall tract boundary at the time of the conditional use application.

§ 208-405. Airport Overlay Zoning District/O-AP.

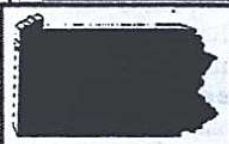
- A. Application. The regulations and standards contained in this Section shall apply to all applications for development within the Airport Overlay Zoning District/O-AP of Lower Moreland Township to:
- (1) Erect a new structure;
 - (2) Add to or increase the height of an existing structure;
 - (3) Establish, erect, or maintain any use, structure, or object (natural or manmade); within the O-AP of Lower Moreland Township.
- B. Relation to Other Zoning Districts. The O-AP shall not modify the boundaries of any other base zoning district or overlay zoning district. Where identified, the O-AP shall impose certain requirements on land use, construction, and development that are in addition to those contained in the applicable base zoning district or applicable overlay zoning district for the same area.
- C. Establishment of O-AP and Related Surface Zones. The O-AP is hereby established and certain surface zones within the O-AP, defined in Article 2 of this Chapter relating to *Specific Terms and Definitions* (§ 208-202.) and shown on the Official Zoning Map listed in Article 1 of this Chapter relating to *Zoning Districts and Official Zoning Map* (§ 208-106.), as follows (see Figure 4-5.1):
- (1) Conical Surface Zone.



FAR PART 77 "IMAGINARY SURFACES" DIMENSION REQUIREMENTS										
Runway Type	Runway End		Conical Surface (L4)	Horizontal Surface (L3)	Approach Surface			Approach Slope	Primary Surface Width	Transitional Surface
	Approach	Other			Length (L2)	Inner Width (W1)	Other Width (W3)			
Small Airplanes ²	V	V	4,000	5,000	5,000	250	1,250	20:1	250	7:1
		NP	4,000	5,000	5,000	500	1,250	20:1	500	7:1
		NP 3/4	4,000	5,000	5,000	1,000	1,250	20:1	1,000	7:1
		P	4,000	5,000	5,000	1,000	1,250	20:1	1,000	7:1
	NP	V	4,000	5,000	5,000	500	2,000	20:1	500	7:1
		NP	4,000	5,000	5,000	500	2,000	20:1	500	7:1
		NP 3/4	4,000	5,000	5,000	1,000	2,000	20:1	1,000	7:1
		P	4,000	5,000	5,000	1,000	2,000	20:1	1,000	7:1
Large Airplanes ³	V	V	4,000	5,000	5,000	500	1,500	20:1	500	7:1
		NP	4,000	10,000	5,000	500	1,500	20:1	500	7:1
		NP 3/4	4,000	10,000	5,000	1,000	1,500	20:1	1,000	7:1
		P	4,000	10,000	5,000	1,000	1,500	20:1	1,000	7:1
	NP	V	4,000	10,000	10,000	500	3,500	34:1	500	7:1
		NP	4,000	10,000	10,000	500	3,500	34:1	500	7:1
		NP 3/4	4,000	10,000	10,000	1,000	3,500	34:1	1,000	7:1
		P	4,000	10,000	10,000	1,000	3,500	34:1	1,000	7:1
Large and Small Airplanes	NP 3/4	V	4,000	10,000	10,000	1,000	4,000	34:1	1,000	7:1
		NP	4,000	10,000	10,000	1,000	4,000	34:1	1,000	7:1
		NP 3/4	4,000	10,000	10,000	1,000	4,000	34:1	1,000	7:1
		P	4,000	10,000	10,000	1,000	4,000	34:1	1,000	7:1
	P	V	4,000	10,000	10,000/40,000	1,000	4,000/16,000	50:1/40:1	1,000	7:1
		NP	4,000	10,000	10,000/40,000	1,000	4,000/16,000	50:1/40:1	1,000	7:1
		NP 3/4	4,000	10,000	10,000/40,000	1,000	4,000/16,000	50:1/40:1	1,000	7:1
		P	4,000	10,000	10,000/40,000	1,000	4,000/16,000	50:1/40:1	1,000	7:1

1 - In Feet
 2 - Less than 12,500 lbs maximum certified takeoff weight
 3 - Greater than 12,500 lbs maximum certified takeoff weight
 V = Visual approach 20:1
 NP = Nonprecision approach 34:1
 NP 3/4 = Nonprecision approach with visibility minimums as low as 3/4 statute miles 34:1
 P = Precision approach 50:1
 Note: L1 is the length of the RPZ and W2 is the outer width of the RPZ as defined by approach visibility minimums

Source: Federal Aviation Administration



Pennsylvania Land Use
 Compatibility
 Guidelines

**FAR PART 77 SURFACES
 AND DIMENSION REQUIREMENTS**

Exhibit
 3

Figure 4-5.1 FAR Part 77 Surfaces and Dimension Requirements
 (Source: Model Zoning Ordinance Language for an Airport District Overlay; PennDOT, 2010)

D. Permit Applications.

- (1) As regulated by Act 164 and defined by 14 Code of Federal Regulations Part 77.13(a) (as amended or replaced), proposals for applications to:

- (1) Erect a new structure;
- (b) Add to or increase the height of an existing structure; or
- (c) Establish, erect, or maintain any use, structure, or object (natural or manmade);

The applicant shall first (1st) notify PennDOT's Bureau of Aviation (BOA) by submitting PennDOT Form AV-57 to obtain an obstruction review of the proposal at least thirty (30) days prior to commencement thereof. PennDOT's BOA response shall be included with this permit application for it to be considered complete. If PennDOT's BOA returns a determination of no penetration of airspace, the permit request should be considered in compliance with the intent of the O-AP. If PennDOT's BOA returns a determination of a penetration of airspace, the permit shall be denied, and the project sponsor may seek a variance from such regulations as outlined in the subsection below relating to *Variances (§ 208-405.E)*.

- (2) Exceptions. In the following circumstances notification of an approval by PennDOT's BOA shall not be required:

- (a) No permit is required for the routine maintenance and repairs to, or the replacement of, parts of existing structures which do not increase the height of an existing structure.
- (b) In the areas lying within the limits of the Approach Surface Zones, but at a minimum horizontal distance of four thousand two hundred (4,200) feet from each end of the runway, no permit shall be required for any tree or structure less than two hundred (200) feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limit prescribed for such Approach Surface Zones.
- (c) In the areas lying within the limits of the Transitional Surface Zones beyond the perimeter of the Horizontal Surface Zones, no permit shall be required for any tree or structure less than two hundred (200) feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic feature, would extend above the height limit prescribed for such Transitional Surface Zones.
- (d) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established in this Section, except that no permit is required to make maintenance repairs to or to replace parts of existing structures which do not increase the height of an existing structure.

- E. VariANCES. In addition to the provisions set forth in Article 9 of this Chapter relating to *VariANCES* in *Zoning Hearing Board's Functions (§ 208-905.C.)* any request for a variance shall include documentation in compliance with 14 Code of Federal Regulations Part 77 Subpart B (FAA Form 7460-1 as amended or replaced). Determinations of whether to grant a variance will depend on the determinations made by the FAA's and PennDOT's BOA as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable air space. In particular, the request for a variance shall consider which of the following categories the FAA has placed the proposed construction in:
- (1) No Objection. The subject construction is determined to not exceed obstruction standards and marking/lighting is not required to mitigate potential hazard. Under this determination a variance shall be granted.
 - (2) Conditional Determination. The proposed construction/alteration is determined to create some level of encroachment into an airport hazard area which can be effectively mitigated. Under this determination, a variance shall be granted contingent upon implementation of mitigating measures as described in the subsection below relating to *Obstruction Marking and Lighting (§ 208-405.H.)*.
 - (3) Objectionable. The proposed construction/alteration is determined to be a hazard and is thus objectionable. A variance shall be denied and the reasons for this determination shall be outlined to the applicant. Such requests for variances shall be granted where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and that relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the purpose and intent set forth in Article 4 of this Chapter relating to *Purpose and Intent and Designation and Purpose Statements – Overlay Zoning Districts in Overlay Zoning Districts (§ 208-401.A. and § 208-401.C.)*.
- F. Use Restrictions. Notwithstanding any other provisions of the O-AP, no use shall be made of land, water, or structure within the O-AP in such a manner as to:
- (1) Create electrical interference with navigational signals or radio communications between the airport and aircraft;
 - (2) Make it difficult for pilots to distinguish between airport lights and others;
 - (3) Impair visibility within the O-AP of Lower Moreland Township;
 - (4) Create bird strike hazards; or
 - (5) Otherwise endanger or interfere with the landing, takeoff or maneuvering of aircraft utilizing the airport.
- G. Nonconforming Uses, Structures, or Trees. The regulations prescribed in this Section shall not be construed to require the removal, lowering, or otherwise change to, or alteration of any use, structure, and/or tree identified as nonconforming to the regulations in this Section as of April 14, 2014, or to otherwise interfere with the continuance of a nonconforming use, structure, or tree.

No nonconforming use or structure shall be altered, nor tree permitted to grow higher, so as to increase the nonconformity (relating to height and the use restrictions set forth in this Section). A nonconforming use, structure, or tree once abandoned or damaged or destroyed as per to the standards in Article 5 of this Chapter relating to *Nonconformities (§ 208-511.)*, may only be reestablished consistent with the provisions in this Section and Article 5 of this Chapter relating to *Nonconformities (§ 208-511.)*.

- H. Obstruction Marking and Lighting. Any permit or variance granted pursuant to the provisions in this Section and Article 9 of this Chapter relating to *Variances in Zoning Hearing Board's Functions (§ 208-905.C.)* may be conditioned according to the process described in this Section to require the owner of the structure or object of natural growth in question to permit the Township of Lower Moreland, at its own expense, or require the person requesting the permit or variance, to install, operate, and maintain such marking or lighting as deemed necessary to assure both ground and air safety.