

**ARTICLE VII**  
**SPECIAL EXCEPTION USES**

**§ 345-25. Procedure for Special Exception Uses.**

The Zoning Hearing Board shall make a determination that the proposed special exception use will or will not be permitted pursuant to the procedures set forth in § 345-36. The use shall be permitted if the standards and criteria set forth in Article VII are met. The use shall not be permitted if the standards and criteria set forth in this section are not met. The Zoning Hearing Board may attach other reasonable conditions and safeguards which are necessary for the protection of the public health, safety, general welfare or morals of the community in the permitting of a special exception use.

- A. In addition to the other requirements of this chapter, an applicant for a special exception use shall prove that the following additional criteria are met:
- (1) Compliance with other laws. The approval may be conditioned upon proof of compliance with other specific applicable Borough, state and federal laws, regulations and permits. Required permits or other proof of compliance may be required to be presented to the Borough prior to the issuance of any zoning permit, building permit, certification of occupancy and/or recording of an approved plan.
  - (2) Traffic. The applicant shall establish that the traffic from the proposed use will be accommodated in a safe and efficient manner that will minimize hazards and congestion, after considering any improvements proposed to be made by the applicant as a condition on approval. The lot shall include proper internal traffic circulation.
  - (3) Neighborhood. The proposed use shall not substantially harm any surrounding residential neighborhood, after considering any proposed conditions upon approval and considering the proposed site planning, setbacks and buffering.
  - (4) Safety. The use shall not create a significant hazard to the public health and safety, such as fire, toxic or explosive hazards.
  - (5) Historic architecture. The application shall reasonably minimize negative impacts upon historically significant architecture on the lot, as viewed from a street.

**§ 345-26. Criteria.**

The following are the standards and criteria for each special exception use as noted in Article V. These standards apply only when the use is a special exception use.

- A. Public and private academic schools.
- (1) Applications for public schools shall include a letter from the Pennsylvania

Department of Education stating that all of the requirements of that Department have been met.

- (2) Private schools shall meet all requirements of the Pennsylvania Department of Education which pertain to the site, location and siting of the school on the property. The Zoning Hearing Board shall be granted such time as is necessary to obtain the most current regulations from the Department of Education.
- B. Municipal buildings, community center building, public library, fire or police station.
- (1) The storage of materials and supplies shall be limited to enclosed areas.
  - (2) Long-term storage of inoperable vehicles shall be limited to enclosed areas.
- C. Membership clubs.
- (1) It shall be demonstrated to the Board that the private club or social organization shall operate on a membership basis only.
  - (2) It will serve a purely social, athletic or community service purpose.
  - (3) It will not be conducted as a business.
  - (4) It will not cause or create a nuisance to adjoining properties or to its general neighborhood in the conduct of its activities.
- D. Hospitals.
- (1) Outside storage of gases must be made in areas inaccessible by and secure by the construction of fences.
  - (2) The location of hospital access points shall be properly suited to the safe operation of emergency vehicles.
  - (3) Access to hospitals shall be available at a minimum of two (2) locations.
  - (4) Suitable areas shall be provided for trash storage, which are so designed as not to be visible from a public street. The trash storage areas must allow for safe, easy removal of the trash.
- E. Outdoor storage of automobiles for sale.
- (1) No loudspeaker audible beyond the property boundary line is permitted.
  - (2) Display area lighting shall be directed away from residential properties.

- (3) All outside display areas shall be paved.
- (4) The parking area shall be designed so that ordinary traffic movements associated with the display and sale of the vehicles can be accomplished within the bounds of the property.

F. Car wash, public garage.

- (1) The parking area shall be designed so that ordinary traffic movements associated with the car wash or garage can be accomplished within the bounds of the property.
- (2) All exterior lighting shall be directed away from residential properties.
- (3) All storage shall be within enclosed structures.
- (4) Directions for the internal movement of traffic shall be clearly marked.
- (5) No public garage accommodating more than five (5) vehicles shall be located or shall have any entrance or exit within two hundred (200) feet of the entrance or exit to a public or parochial school, private school, public library, theater, assembly hall, church, hospital, semi-public institution, public park, playground or fire station.

G. Filling station and garages.

- (1) Spray painting or bodywork shall not be permitted except in the M-Manufacturing District.
- (2) All refuse shall be stored within an enclosed area. All parts and inoperable vehicles shall be stored in an enclosed structure.
- (3) Vehicles awaiting repair shall not be stored outside of enclosed areas for more than five (5) days.
- (4) The gasoline pumps shall be arranged so that sufficient area exists for expected lines of vehicles awaiting fueling within the property line.
- (5) When the rental of equipment such as automobiles, trucks and trailers is to be conducted, an additional one thousand (1,000) square feet of lot area shall be provided for each five (5) automobiles and trailers and one thousand (1,000) square feet for each four (4) trucks.
- (6) Ancillary businesses, such as car washes and convenience markets, must provide sufficient parking and a clear, safe access arrangement.

- (7) All exterior lighting shall be directed away from residential properties.
  - (8) No garage accommodating more than five (5) vehicles and no filling station shall be located or shall have any entrance or exit within two hundred (200) feet of the entrance of or exit to a public or parochial school, private school, public library, theater, assembly hall, church, hospital, semi-public institution, public park, playground or fire station.
  - (9) Gasoline sales canopies. Any canopy over gasoline pumps shall have a maximum distance between the ground level and the underside of the canopy of 18 feet. If the ground level is sloped, then a portion of the canopy may have a greater height, provided that the maximum height is 18 feet at the portion of the canopy that is closest the street. All light fixtures under the canopy shall be recessed into the canopy or screened by an extension around the bottom of the canopy so that lighting elements are not visible from another lot.
- H. Bus passenger station.
- (1) All areas used for vehicle storage, loading, fueling or maneuvering shall be paved.
  - (2) The parking area shall be arranged so that all internal traffic movements can be made without entering the public right-of-way.
  - (3) All repair operations shall be conducted within enclosed buildings.
  - (4) All storage shall be within enclosed structures.
  - (5) Access to and from transportation terminals shall only be allowed to roads classified as collector or arterial by Macungie Comprehensive Plan.
- I. Restaurants.
- (1) Suitable areas shall be provided for refuse storage which are so designed as not to be visible from a public street. The refuse storage area must allow for safe, easy removal of refuse.
  - (2) All exterior lighting shall be directed away from residential properties.
- J. Public utility buildings, structures or facilities. The storage of materials and supplies shall be limited to enclosed areas.
- K. Child day care centers.
- (1) Applications for a child day care center shall be made to the Zoning Hearing Board. If the requirements of § 345-25 have been complied with, the Zoning Hearing

Board shall grant approval upon the condition that the applicant secures approval from the Pennsylvania Department of Welfare.

- (2) Final approval for child care centers shall be granted by the Zoning Hearing Board only upon receipt of a letter from the Pennsylvania Department of Public Welfare stating that all requirements of Chapter II, § 8A of the Department's Social Services Manual on regulations for child day care centers have been met.

L. Personal care facilities.

- (1) The facility shall be designed so that the public use and common use portions are readily accessible to and usable by persons with physical or mental impairments who may live in the facility.
- (2) The facility shall be designed so that all doors in the facility shall allow passage into and within such facility by persons in wheelchairs who may live in the facility.
- (3) The facility shall be designed with (i) an accessible route into and through the facility; (ii) light switches, electrical outlets, thermostats and other environmental controls shall be located in accessible locations for persons who may live there; and (iii) kitchens and bathrooms shall be usable for any person who may live in such facility and have need for a wheelchair.
- (4) The outside appearance of the facility and its lot shall not alter the essential character of the neighborhood nor substantially impair the appropriate use of adjacent property.
- (5) The facility shall comply with all licensure requirements of any federal, state, county or local law applicable to the facility including, without limitation, the regulations of the Pennsylvania Department of Public Welfare, 55 PA. Code § 2620, et.. seq., as amended from time to time.

M. Mobile homes, mobile home lots and mobile home parks.

- (1) There shall be no more than five (5) mobile homes per acre in a mobile home park.
- (2) Mobile home parks shall have a minimum area of five (5) acres; a minimum public street frontage of five hundred (500) feet; a minimum distance from a 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 lot line of the park to the nearest mobile home of fifty (50) feet; a maximum height of thirty-five (35) feet; and two (2) means of ingress and egress.
- (3) 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 setback of twenty-five (25) feet, a minimum rear yard setback of twenty-five (25) feet; and a maximum height of thirty-five (35) feet.

- (4) Any mobile/manufactured home placed on an individual lot or in a mobile/manufactured home park after the effective date of this chapter shall meet the following additional requirements:
  - (a) The mobile/manufactured home shall have been constructed in accordance with 1976 or later safety and construction standards of the U.S. Department of Housing and Urban Development.
  - (b) Each site shall be graded to provide a stable and well-drained area.
  - (c) Each home shall have hitch and wheels removed.
  - (d) A mobile/manufactured home shall include a suitable system that secures the home to the ground to prevent shifting, overturning or uneven settling of the home, with a secure base for the tie-downs.
  - (e) The space between the bottom of the home and the ground and/or home pad shall be enclosed using a durable material that has the appearance of a foundation of a site-built home, such as material with a concrete-type or stucco facing. However, units within a manufactured/mobile home park which may utilize metal skirting in place of this enclosure. Provisions shall be provided as necessary for access to utility connections.
  - (f) The front door of the home shall face onto a public street, except within a Mobile Home Park.
- (5) In addition to general regulations in Articles VI and VII of this chapter, the following shall apply to mobile home parks:
  - (a) 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 Protection and in conformance with the ordinances and regulations of the Borough.
  - (b) 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.

- (c) 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, Chapter 296, Article III, of the Code of Ordinances of the Borough of Macungie, as amended.
- (d) Streets within mobile home parks shall comply with all ordinances and regulations of the Borough, including, without limitation, Article VI of the Borough of Macungie Subdivision and Land Development Ordinance of 1987, as amended [Chapter 305].

N Adult use. (This is limited to the following: adult bookstore, adult motion picture theater, massage parlor or cabaret)

- (1) Purposes. The regulations on adult uses are intended to serve the following purposes, in addition to the overall objectives of this chapter:
  - (a) To recognize the adverse secondary impacts of adult uses that affect health, safety and general welfare concerns of the municipality. These secondary impacts have been documented in research conducted across the nation and include, but are not limited to: increases in criminal activity, increases in activities that increase the risk of transmission of sexually transmitted diseases, increases in activities that increase the risk of transmission of other communicable diseases, increases in blight, decreases in the stability of residential neighborhoods, and decreases in property values for surrounding homes, and decreases in the marketability of nearby commercial business space.
  - (b) To limit adult uses to locations where these secondary impacts can be minimized, particularly as they affect residential neighborhoods and downtown revitalization.
  - (c) To not attempt to suppress any activities protected by the free speech protections of the U.S. Constitution, but instead to control secondary effects.
- (2) No portion of a building occupied by an adult use shall be located within any of the following distances: (i) 500 lineal feet of any residential zoning district boundary or any existing residential use, (ii) 1,000 lineal feet from the lot line of any existing primary or secondary school, park open for public recreation, place of worship, day care center or child nursery.

- (3) A 50 feet buffer yard shall be provided, regardless of zoning district, along the side and rear lot lines in accordance with § 345-19, but with plantings of an initial minimum height of 6 feet.
- (4) No pornographic material, displays or words shall be placed in view of persons who are not inside of the establishment. Definite precautions shall be made to prohibit minors from entering the premises.
- (5) No such use shall be used for any purpose that violates any Federal, State or municipal law.
- (6) See "Prohibited Signs" in § 345-24I.
- (7) The use shall not include the sale or display of obscene materials, as defined by State law, as may be amended by applicable court decisions.
- (8) Adult uses shall be distinct land uses that shall only be allowed where specifically listed as allowed in the zoning district regulations.
- (9) A minimum lot area of 1 acre is required.
- (10) For public health reasons, private or semi-private viewing booths of any kind are prohibited. This specifically includes, but is not limited to, booths for viewing adult movies or nude dancers.
- (11) No use may include live actual or simulated sex acts nor any sexual contact between entertainers nor between entertainers and customers. This shall specifically prohibit, but not be limited to, entertainers dancing on the laps of customers.
- (12) Only "lawful" massages as defined by State court decisions shall be performed in a massage parlor.
- (13) All persons within any adult use shall wear non-transparent garments that cover their genitals and the female areola, except for entertainers within a permitted lawful "cabaret."
- (14) Any application for such use shall state the names and home addresses of: (i) all individuals intended to have more than a 5 percent ownership in such use or in a corporation owning such use and (ii) an on-site manager responsible to ensure compliance with this chapter on a daily basis. Such information shall be updated at the beginning of each year in writing to the Zoning Officer.
- (15) The use shall not operate between the hours of 12 midnight and 7 a.m.

- (16) As specific conditions of approval under this chapter, the applicant shall establish compliance with the following State laws, as amended: the Pennsylvania Liquor Code, Act 219 of 1990 (which pertains to sale or consumption of alcohol between 2 a.m. and 8 a.m.), Act 207 of 1990 (which pertains to obscenity) and Act 120 of 1996 (which pertains to Adult-Oriented Establishments and which limits enclosed viewing booths among other matters).

O. Bed and breakfast establishments.

- (1) One (1) off-street parking space shall be provided for each guestroom in addition to requirements for the residence. The off-street parking spaces shall be located either to the rear of the main dwelling or screened from the roadway and adjoining properties by fencing or natural vegetation.
- (2) At least one (1) bathroom shall be provided for the exclusive use of the guests.
- (3) 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 constructed and placed in accordance with § 345-24.
- (4) 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.
- (5) The use shall be carried on only by members of the immediate family, who must reside on the premises.
- (6) There shall be no separate kitchen or cooking facilities in any guestroom. Food served to guests on the premises shall be limited to breakfast only.
- (7) The maximum, uninterrupted length of stay at a bed and breakfast use shall be fourteen (14) days.
- (8) The use of any amenities provided by the bed and breakfast, such as swimming pool or tennis court, shall be restricted in use to the guests of the establishment.
- (9) The existing sewage disposal system shall be recertified as being adequate, in accordance with State regulations, with respect to the establishment of such a facility.
- (10) A maximum of 6 guest rental units shall be allowed where the use is permitted in a residential district.

P. Wireless telecommunications antennae and towers.

- (1) The purpose of this subsection is to establish general guidelines for the siting of wireless communications towers and antennae (as special exceptions in the M District-Manufacturing Zoning District only) to:
- (a) Protect residential areas and land uses from potential adverse impacts of such towers and antennae.
  - (b) Minimize the total number of towers throughout the community.
  - (c) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.
  - (d) Encourage users of towers and antennae to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
  - (e) Encourage users of towers and antennae to configure them in a way that minimizes the adverse visual impact of the towers and antennae through careful design, siting, landscape screening, and innovative camouflaging techniques.
  - (f) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
  - (g) Consider the public health and safety of communication towers.
  - (h) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the Borough shall give due consideration to the Borough's master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennae.
- [1] All new towers or antennae in the Borough shall be subject to these regulations.
- [2] Preexisting towers and preexisting antennae shall not be required to meet the requirements of this subsection, other than the requirements of Subsections P(2) below.
- [3] For purposes of implementing this subsection, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

- (2) General Requirements.
- (a) Towers are considered only as principal uses of a lot; provided that the same are permitted by special exception approval granted by the Zoning Hearing Board. Antennas are considered to be accessory uses to existing structures and may be sited thereon; provided that the same are permitted by special exception approval granted by the Zoning Hearing Board. A different existing use of an existing structure on the same lot shall preclude the installation of a tower on such lot.
  - (b) Each applicant for an antenna and/or tower shall provide to the Zoning Officer an inventory of its existing towers, antennae, or sites approved for towers or antennae, that are either within the jurisdiction of the Borough or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Zoning Officer may share such information with other applicants applying for administrative approvals or special exception use permits under this section or other organizations seeking to locate antennae within the jurisdiction of the Borough, provided, however that the Zoning Officer is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
  - (c) Towers and antennae subject to this subsection shall meet the following requirements:
    - (1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
    - (2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
    - (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
  - (d) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

- (e) All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennae. If such standards and regulations are changed, then the owners of the towers and antennae governed hereby shall bring such towers and antennae into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennae into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (f) To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Borough concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (g) For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Borough irrespective of municipal and county jurisdictional boundaries.
- (h) Towers and antennae shall be regulated and permitted pursuant to this Section and shall not be regulated or permitted as essential services, public utilities, or private utilities.
- (i) Owners and/or operators of towers or antennae shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Borough have been obtained and shall file a copy of all required franchises with the Zoning Officer.
- (j) For purposes of this section, any special exception use request, variance request, or appeal of an administratively approved use or special exception use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Table 2 of this section, in addition to any notice otherwise required by this chapter.
- (k) No signs shall be allowed on an antenna or tower.

- (l) Buildings and support equipment associated with antennae or towers shall comply with the requirements of subsection P(1) et seq.
  - (m) The Borough encourages the users of towers and antennae to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.
- (3) Special exception use permits. The following provisions shall govern the issuance of special exception use permits for towers or antennae (which may only be sited in the M District-Manufacturing Zoning District):
- (a) Applications for special exception use permits under this Section shall be subject to the procedures and requirements of § 345-36.
  - (b) In granting a special exception use permit, the Zoning Hearing Board may impose conditions to the extent the Zoning Hearing Board concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
  - (c) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
  - (d) An applicant for a special exception use permit shall submit the information described herein and a non-refundable fee as established by resolution of the Borough Council to reimburse the Borough for the costs of reviewing the application.
  - (e) The Applicant shall supply to the Borough, at the time that the application for a special exception is filed, the following information:
    - [1] A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), comprehensive plan classification of the site and all properties within the applicable separation distances set forth in Tables 1 and 2, below, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Zoning Officer to be necessary to assess compliance with this section.
    - [2] Legal description of the parent tract and leased parcel (if applicable).

- [3] The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
  - [4] The separation distance from other towers described in the inventory of existing sites submitted pursuant to Subsection P(2)(b) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
  - [5] A landscape plan showing specific landscape materials.
  - [6] Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
  - [7] A description of compliance with all applicable federal, state or local laws.
  - [8] A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennae for future users.
  - [9] Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Borough.
  - [10] A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
  - [11] A description of the feasible location(s) of future towers or antennae within the Borough based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- (f) The Zoning Hearing Board shall consider the following factors in determining whether to issue a special exception use permit:
- [1] Height of the proposed tower.
  - [2] Proximity of the tower to residential structures and residential district boundaries.

- [3] Nature of uses on adjacent and nearby properties.
  - [4] Surrounding topography.
  - [5] Surrounding tree coverage and foliage.
  - [6] Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
  - [7] Proposed ingress and egress.
  - [8] Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Subsection P(3)(g) below.
- (g) No new tower shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the Zoning Hearing Board that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Zoning Hearing Board related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
- [1] No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
  - [2] Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
  - [3] Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - [4] The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the Applicant's proposed antenna.
  - [5] The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

- [6] The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
  - [7] The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be resumed to render the technology unsuitable.
- (h) The following setback requirements shall apply to all towers for which a special exception use permit is required; provided, however, that the Zoning Hearing Board may reduce the standard setback requirements if the goals of this Section would be better served thereby:
- [1] Towers shall be set back a distance equal to at least one hundred twenty five percent (125%) of the height of the tower from any adjoining lot line.
  - [2] Guy wires and accessory buildings must satisfy the minimum zoning district setback requirements.
- (i) The following separation requirements shall apply; provided, however, that the Zoning Hearing Board may reduce the standard separation requirements if the goals of this section would be better served thereby.
- [1] Separation from off-site uses/designated areas.
    - [a] Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1 of this section, except as otherwise provided in Table 1.
    - [b] Separation requirements for towers shall comply with the minimum standards established in Table 1.

**Table 1:**

<b>Off-site Use/Designated Area</b>	<b>Separation Distance</b>
<b>Single-family or duplex residential units<sup>1</sup></b>	<b>200 feet or 300% height of tower whichever is greater</b>
<b>Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired</b>	<b>200 feet or 300% height of tower<sup>2</sup> whichever is greater</b>
<b>Vacant unplatted residentially zoned lands<sup>3</sup></b>	<b>100 feet or 125% height of tower whichever is greater</b>
<b>Existing multi-family residential units greater than duplex units</b>	<b>100 feet or 125% height of tower whichever is greater</b>
<b>Non-residentially zoned lands or non-residential uses</b>	<b>None; only setbacks apply</b>

<sup>1</sup> Includes modular homes and mobile homes used for living purposes.

<sup>2</sup> Separation measured from base of tower to closest building setback line.

<sup>3</sup> Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land greater than duplex.

[2] Separation distances between towers.

[a] Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

**Table 2:****Existing Towers - Types**

	<b>Lattice</b>	<b>Guyed</b>	<b>Monopole 75 Ft in Height or Greater</b>	<b>Monopole Less Than 75 Ft in Height</b>
<b>Lattice</b>	<b>5,000</b>	<b>5,000</b>	<b>1,500</b>	<b>750</b>
<b>Guyed</b>	<b>5,000</b>	<b>5,000</b>	<b>1,500</b>	<b>750</b>
<b>Monopole 75 Ft in Height or Greater</b>	<b>1,500</b>	<b>1,500</b>	<b>1,500</b>	<b>750</b>
<b>Monopole Less Than 75 Ft in Height</b>	<b>750</b>	<b>750</b>	<b>750</b>	<b>750</b>

- (j) Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device.
- (k) The following requirements shall govern the landscaping surrounding towers for which a special exception use permit is required; provided, however, that the Zoning Hearing Board may waive such requirements if the goals of this ordinance would be better served thereby.
- [1] Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.
- [2] Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
- (l) For antennae mounted on structures or rooftops, the equipment cabinet or structure used in association with antennae shall comply with the following:
- [1] The cabinet or structure shall not be more than two (2) feet in height. In addition, for buildings and structures which are less than sixty-five (65) feet in height, the related unmanned equipment structure, if two (2) feet in height, shall be located on the ground

and shall not be located on the roof of the structure.

- [2] If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than ten (10) percent of the roof area.
  - [3] Equipment storage buildings or cabinets shall comply with all applicable building codes.
- (m) For antennae mounted on utility poles or light poles, the equipment cabinet or structure used in association with such antennae shall only be located on the ground. In the event that the cabinet or structure is no greater than two (2) feet in height, the equipment cabinet or structure may be located a minimum of thirty-five (35) feet from all lot lines. In the event that the equipment cabinet or structure is greater than two (2) feet in height, then, in such event, the equipment cabinet or structure shall maintain all required front, rear and side yard set backs as required in this section 502(P) or the other applicable provisions of the Zoning Ordinance, as amended from time to time, whichever is greater. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least 42-48 inches and a planted height of at least 36 inches.
  - (n) For antennae located on towers, the related unmanned equipment structure shall not be more than six (6) feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.
- (4) Removal of abandoned antennae and towers. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Borough notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) day shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
  - (5) Nonconforming uses.
    - (a) Towers that are constructed, and antennae that are installed, in accordance with the provisions of this section shall not be deemed to constitute the expansion of a nonconforming use or structure.
    - (b) Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers.

New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this chapter.

- (c) Notwithstanding Subsection P(2) above, bona fide nonconforming towers or antennae that are damaged or destroyed may be rebuilt without having to first obtain a special exception use permit and without having to meet the separation requirements specified above. The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Subsection P(2).
- (6) In the interests of the health, safety and welfare of the residents of the Borough and the aesthetic interests of the community, antennae and antenna structures, excluding those subject to § 345-21A(9) and 345-26P(4), shall be permitted by special exception and shall:
- (a) Meet the yard requirements of the primary permitted use but guy wires and anchors may be located within side and rear yard set back areas.
  - (b) Not be constructed until feasibility studies and valid engineering data have been submitted and approved by the Zoning Officer and Borough Engineer.
  - (c) Conform to all applicable federal, state and local codes and ordinances.
  - (d) Not extend higher than seventy-five (75) feet above grade (provided that all other provisions of this Subsection P are met).
  - (e) When a licensed radio, transmitting and receiving stations of amateur and citizen radio service, be considered as accessory uses to the primary use of the building or property situate upon the lot.

Q. Junkyard.

- (1) Storage of garbage or biodegradable material is prohibited, other than what is customarily generated on-site and routinely awaiting pick-up.
- (2) Outdoor storage of junk shall be at least: (i) 100 feet from any residential lot line and (ii) 50 feet from any other lot line and the existing right-of-way of any public street.
- (3) The site shall contain a minimum of 2 exterior points of access, each of which is not less than 20 feet in width. One of these accesses may be limited to emergency

vehicles. Cleared driveways shall be provided throughout the entire use to allow access by emergency vehicles. Adequate off-street parking areas shall be provided for customers.

- (4) Outdoor storage shall be completely enclosed (except at approved driveway entrances) by a 40 foot wide buffer yard which complies with § 345-19, unless such storage is not visible from an exterior lot line or street. The initial height of the evergreen planting shall be 6 feet. Secure fencing with a minimum height of 8 feet shall be provided and well maintained around all outdoor storage areas. Such fencing shall be provided inside of the evergreen screening.
- (5) Burning or incineration is prohibited.
- (6) All gasoline, antifreeze and oil shall be drained from all vehicles and properly disposed of. All batteries shall be removed from vehicles and properly stored in a suitable area on an impervious and properly drained surface.
- (7) Lot area - 2 acres minimum; 20 acres maximum.
- (8) Tires shall not be stored in a manner that would create fire or vector hazards.

R. Kennel.

- (1) Minimum lot area - 2 acres.
- (2) All buildings in which animals are housed and all runs shall be located at least 200 feet from all residentially used or zoned lots.
- (3) Buildings shall be adequately soundproofed so that sounds generated within the buildings cannot routinely be heard within any principal building on another lot.
- (4) No animal shall be permitted to use outdoor runs from 8 p.m. to 8 a.m. that are within 250 feet of residentially used or zoned properties. Runs for dogs shall be separated from each other by visual barriers a minimum of 4 feet in height.
- (5) The use shall also comply with § 118-13 of the Codified Ordinances of Macungie.
- (6) All animal wastes shall be removed and properly disposed of, at least once a day.
- (7) The operator of the kennel shall exercise all necessary control over the animals and shall not allow a nuisance condition to exist in terms of excessive noise, odor or health hazards.

- (8) The kennel shall be operated in full compliance with the State Animal Welfare Act and applicable State kennel regulations. The kennel shall be open to regular inspection by the Zoning Officer and any designated Health Inspector.

S. Treatment centers.

- (1) See definition in Article XI.
- (2) The applicant shall provide a written description of all types of persons intended to occupy the use during the life the permit. Any future additions to this list shall require an additional special exception approval.
- (3) The applicant shall prove to the satisfaction of the Zoning Hearing Board that the use will involve adequate on-site supervision and security measures to protect public safety.
- (4) The Zoning Hearing Board may place conditions upon the use to protect public safety, such as conditions on the types of residents and security measures.

T. Unit for care of relative.

- (1) The use shall meet the definition in § 345-43.
- (2) The accessory unit shall be occupied by a maximum of two persons, who shall be close "relatives" of the permanent residents of the principal dwelling unit. At least one resident of the accessory unit shall need such accommodations because of an illness, old age or disability.
- (3) The applicant shall prove to the Zoning Hearing Board that the accessory unit has been designed and constructed so that it can be easily reconverted into part of the principal dwelling unit after the relative no longer resides within the unit. A written plan shall be submitted showing how the separate unit will be changed to no longer be a separate unit. The accessory unit may be converted into an additional bedroom(s), permitted home occupation area or similar use. A lawful detached garage may be converted into a unit for care of relative, and then be reconverted to a garage or permitted home occupation area.
- (4) The applicant shall establish a legally binding mechanism that will prohibit the use of the accessory unit as a separate dwelling unit after the relative no longer resides within the unit. Such mechanism shall also be binding upon future owners.
- (5) The owner of the property shall be required to annually renew the permit for the use. Such renewal shall be conditioned upon the owner proving that a relative of the occupants of the principal dwelling unit continues to reside within the accessory unit.

- (6) Such accessory unit shall not decrease the one family residential appearance of a one family dwelling, as viewed from exterior property lines.
- (7) Additional parking for the accessory unit may be waived by the Zoning Hearing Board as part of the special exception approval if the applicant proves that the resident(s) of the accessory unit will not routinely operate their own vehicle.
- (8) The unit shall be in the same building as the principal dwelling, or in an accessory building that existed prior to the adoption of this section. There shall be at least one interior door between the two units if they are within the same building.

U. Internet devices installed on existing utility structures.

- (1) Devices installed in or on existing utility structures for the purpose of facilitating or otherwise delivering broadband internet service or power line communications (hereinafter referred to as “BPL Devices”) shall not exceed six (6) feet in length (nor may BPL Devices increase the overall length of existing utility structures by more than six feet), nor shall BPL Devices exceed two and one-half (2 1/2) inches in diameter.
- (2) BPL Devices shall be of a neutral color that is identical to or closely compatible with the color of the supporting utility structure so as to make the BPL Device as visually unobtrusive as possible.
- (3) Any associated cabinets or other equipment (including any and all external appendages) shall not exceed four (4) cubic feet in volume and shall be mounted directly upon the existing utility structure upon which the related BPL Device is located or within an existing utility structure with five-hundred feet of the existing structure and BPL Device.
- (4) BPL Devices shall comply with all applicable FCC and FAA laws and regulations, as well as all applicable building codes.
- (5) BPL Devices may be approved by the Zoning Officer as an accessory use to any existing utility structure provided that all of the foregoing provisions of this § 345-26U are fully satisfied.