

AN ORDINANCE

NO. _____

AN ORDINANCE To Amend The Code Of The Township Of Lower Merion, Chapter 155, Entitled Zoning, To Amend Article II, Definitions, § 155-4.B Terms Defined By Adding A New Definition For Personal Service Shop; And To Amend Article XVIIB, Mixed-Use Special Transportation District (MUST), §155-87.20.C. By Clarifying The Applicability Of Standards To New, Existing, Or Expanded Buildings, And To Amend Article XVIIB, MUST, §155-87.21.B. Use Regulations By Removing Dance, Music, Personal Fitness Training And Art Studios From The List Of Uses Requiring A 300 Feet Separation; And To Amend Article XVIIB, MUST, §155-87.21.C. Use Regulations By Removing Personal Service Shop As A Use Permitted Anywhere By-Right In The MUST District; And To Add A New Subsection D To Permit Dance, Music, Personal Fitness Training And Art Studios And Personal Service Shop Uses In The MUST District Provided A 100 Feet Separation is Provided Between Similar Ground Floor Uses Fronting On Lancaster Avenue; And To Amend §155-87.23 Parking & Loading Requirements By Amending §155-87.23.E. Off-site Parking To Clarify Off-Site Parking Requirements, And To Limit The Designation Of Off-Site Public Parking Spaces To 10 Spaces For Mixed-Use Buildings Only And To Amend Section §155-87.23.F. On-Street Parking To No Longer Allow New Buildings To Count On-Street Parking Spaces Toward Their Required Parking; And To Amend Article XVIIIA, Ardmore Special Development District, §155-87.10 Parking By Amending Section §155-87.10.B. To No Longer Allow New Buildings To Count Off-site Public Parking Spaces Toward Their Required Parking, And To Limit The Designation Of Off-Site Public Parking Spaces To 10 Spaces For Mixed-Use Buildings Only.

The Board of Commissioners of the Township of Lower Merion hereby ordains:

Section 1. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article II, Definitions, §155-4 Terms defined, subsection B, shall be amended by the addition in alphabetical order of the following word:

Article II. Definitions

§ 155-4. Terms defined.

- B. Words and terms defined. Unless otherwise expressly stated, the following words and phrases shall be construed throughout this chapter to have the meanings indicated in this article:

PERSONAL SERVICE SHOP – An establishment which offers specialized non-medically related services generally related to personal needs. Included are barbershop, beauty shop, nail salon, laundry cleaning, tailoring, shoe repair, and other similar establishments.

Section 2. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XVIIB, Mixed-Use Special Transportation District, §155-87.20, Purpose and applicability, sub-section C thereof, Applicability, is hereby amended by the addition of new paragraphs (9) and (10), to provide as follows:

§ 155-87.20. Purpose and applicability

C. Applicability

- (9) Reference to “new buildings” in this Article shall mean those buildings at least 75% of whose floor area was constructed after July 1, 2017.
- (10) An existing or expanded building for purposes of this Article shall be one whose floor area has not been increased more than 75% from that which existed on July 1, 2017.

Section 3. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XVIIB, Mixed-Use Special Transportation District, §155-87.21. Use regulations, sub-section B thereof, is hereby amended to provide as follows:

§ 155-87.21. Use regulations.

A building may be erected or used and a lot may be used or occupied only for the purposes listed below. The applicant is encouraged to create a mixed-use development. Developments shall adhere to the development design standards in § 155-87.25.

B. The following nonresidential/commercial uses are permitted on upper floors of buildings fronting on Lancaster Avenue and on any floor elsewhere in the MUST District. These uses are also permitted on the ground floor of buildings fronting on Lancaster Avenue if the separation between these uses is at least 300 linear feet, measured from the closest property lines as a pedestrian would walk. These uses shall not be subject to the separation requirements when they are limited only to portions of the building more than 50 feet from Lancaster Avenue.

- (1) Adult or child day care.
- (2) Nursery school or similar nonresidential use for more than six children.
- (3) Bank or other financial institution, excluding drive-through windows.
- (4) Professional offices or office building, medical offices or medical clinic building.
- (5) Copy centers and job printing operating on a retail sales level.
- (6) Indoor recreational facilities such as roller and skating rinks, skateboard parks and playgrounds.
- (7) ~~Dance, music, personal fitness training, or art studios.~~ (Reserved)
- (8) Accessory use on the same lot with and customarily incidental to any of the above permitted uses, including aboveground or below-ground parking structures and fitness centers, but specifically excluding off-track betting parlors.
- (9) Any use of the same general character as any of the uses hereinbefore specifically permitted, but excluding off-track betting parlors.

Section 4. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XVIIIB, Mixed-Use Special Transportation District, §155-87.21. Use regulations, subsection C thereof is hereby amended and a new subsection D is hereby added, to provide as follows:

§ 155-87.21. Use regulations.

A building may be erected or used and a lot may be used or occupied only for the purposes listed below. The applicant is encouraged to create a mixed-use development. Developments shall adhere to the development design standards in § 155-87.25.

C. The following uses are permitted on grade level and upper level floors:

- (1) Full-service restaurants, including walkup windows, excluding drive-through windows.
- (2) Bakery, confectionery or custom shop for the production of articles to be sold at retail on the premises.
- (3) Parking structure, or public parking structure.
- (4) Retail store with an area on each story equal to or less than 25,000 square feet and excluding drive-through windows.
- (5) ~~Personal service shop, excluding fitness centers and massage parlors, but including tailor, barber, beauty salon, shoe repair or similar type use, excluding drive-through windows.~~ (Reserved)
- (6) Grocery store with a floor area less than 35,000 square feet, excluding drive-through windows. [Amended 3-18-2015 by Ord. No. 4053]
- (7) Dry-cleaning establishment operating as a retail store, excluding drive-through windows. [Amended 3-18-2015 by Ord. No. 4053]
- (8) Hotels.
- (9) Theater.
- (10) Real estate sales office
- (11) Municipal use. [Amended 7-29-2015 by Ord. No. 4067]
- (12) Transit facilities.
- (13) Accessory use on the same lot with and customarily incidental to any of the above permitted uses, including aboveground or below-ground parking structures and fitness centers, but specifically excluding off-track betting parlors.
- (14) Any use of the same general character as any of the uses hereinbefore specifically permitted, but excluding off-track betting parlors.
- (15) Storage use, as an accessory use to any permitted use, provided the storage area doesn't occupy more than 25% of the total floor area and does not front on any street.

D. The following nonresidential/commercial uses are permitted on upper floors of buildings fronting on Lancaster Avenue and on any floor elsewhere in the MUST District. These uses are also permitted on the ground floor of buildings fronting on Lancaster Avenue if the separation between these uses is at least 100 linear feet, measured from the closest property lines as a pedestrian would walk. These uses shall not be subject to the separation requirements when they are limited only to portions of the building more than 50 feet from Lancaster Avenue.

(1) Dance, music, personal fitness training, or art studios.

(2) Personal service shop.

Section 5. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XVIIB, Mixed-Use Special Transportation District, §155-87.23 Parking & Loading Requirements, Section E Off-site Parking is hereby amended to provide as follows:

§155-87.23. Parking & Loading Requirements

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E. Off-site parking.

(1) Off-site parking is permitted in the MUST District, except for student home uses, subject to the regulations set forth below.

(2) Shared parking. When land uses on adjacent lots within the MUST create shared parking areas with circulation paths and access points that are under common ownership or controlled by a reciprocal easement agreement, the collective parking requirements for development on those properties may comply with the required parking values listed in Table 1.

(a) Documentation confirming the ownership and/or management arrangement shall be submitted to the Township prior to the Board of Commissioners approval of the preliminary plan application and shall be subject to the Board's approval. The agreement must demonstrate a permanent commitment for the use of the off-site shared parking.

(3) Code-required parking for uses in mixed-use ~~buildings structures~~ may be provided off site, provided:

(a) Off-site parking must be within 900 feet of the ~~mixed-use development~~ using a pedestrian route continually accessible to the public, measured from lot line to ~~lot line~~ the parking space.

- (b) ~~The~~Any private parking facility shall comply with the MUST development design standards in § 155-87.25.
- (c) Documentation that the private parking facility owner agrees to make the spaces permanently available to ~~the proposed an~~ off-site ~~mixed-use development within the MUST District~~ shall be submitted to the Township prior to the Board of Commissioner's consideration of ~~the any~~ preliminary plan application, or use if no preliminary plan is required, and, otherwise, shall be subject to the approval of the Director of Building & Planning. ~~The~~Such off-site parking spaces may not be designated as required parking for some other use. ~~The agreement must demonstrate a permanent commitment for the use of the off site shared parking.~~
- (d) If adequate on-site parking is not available, the parking requirements for uses in existing and expanded mixed-use buildings may be met by designating currently undesignated metered public parking spaces in any public parking lot within 900 feet of the ~~proposed use, measured from lot line to lot line~~ the parking space. Each public parking space may only be counted once when this parking provision is utilized. A maximum of ~~75~~10 parking spaces in public parking lots may be designated under this section ~~for new buildings or buildings being expanded.~~ Public parking spaces may not be designated for uses in new buildings. If public parking spaces are designated for dwelling units, the parking required on the lot where the residential units are located shall not be reduced to less than one space per unit.
- (4) Code required parking for uses in new single-use buildings may not be provided off-site. Code-required parking for uses in existing or expanded single-use ~~buildings structures~~ may be provided off site, provided when:
- (a) The ~~development~~ lot on which the building is located is less than 8,000 square feet and improved street frontage is less than 40 feet;
- (b) Off-site Pparking must be within 900 feet of the ~~single-use development~~ using a pedestrian route continually accessible to the public, measured from lot line to ~~lot line~~ the parking space;
- (c) Both the single-use ~~building development~~ and ~~the any~~the private parking facility shall comply with the MUST development design standards in § 155-87.25; and
- (d) Documentation that the private parking facility owner agrees to make the spaces permanently available to ~~the proposed an~~ off-site ~~single-use development within the MUST District~~ shall be submitted to the Township prior to the Board of Commissioner's ~~consideration~~ approval of any preliminary plan ~~tentative sketch plan~~ application, or use if no preliminary plan is required, and, otherwise, shall be subject to the approval of the Director of

Building & Planning. ~~The~~Such off-site parking spaces may not be designated as required parking for some other use. ~~The agreement must demonstrate a permanent commitment for the use of the off-site shared parking.~~

Section 6. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XVIIIB, Mixed-Use Special Transportation District, §155-87.23 Parking & Loading Requirements, Section F, On-street Parking is hereby amended to provide as follows:

§155-87.23. Parking & Loading Requirements

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- F. On-street parking. Provided an existing or expanded building complies~~the new or rehabilitated building or buildings comply~~ with the MUST development design standards in § 155-87.25, legal on-street parking along the lot's street frontage may be counted toward the development's minimum parking requirements. Each such on-street public parking space may only be counted once.

Section 7. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XVIIIA, Ardmore Special Development District, §155-87.10 Parking, Section B thereof, is hereby amended to provide as follows:

Article XVIIIA. Ardmore Special Development District

§ 155-87.10. Parking.

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- B. If on-site parking for uses in existing or expanded buildings is ~~prohibited not available~~ or the Director of Building and Planning determines that it is not feasible ~~or appropriate~~, the parking requirements established in Article XX may be met by designating up to 10 off-street metered public parking spaces, ~~provided that they are~~ within a five-hundred-foot radius, measured from lot line to the parking space, and on a parcel which is zoned commercial. Each such public parking space may only be counted once when this parking provision is utilized. An existing or expanded building for purposes of this section shall be one whose floor area has not been increased more than 75% from that which existed on July 1, 2017.

Section 8. Nothing in this Ordinance or in Chapter 155 of the Code of the Township of Lower Merion, as hereby amended, shall be construed to affect any suit or proceedings in any

Court, any rights acquired or liability incurred, any permit issued, or any cause or causes of action existing under the said Chapter 155 prior to the adoption of this amendment.

Section 9. The provisions of this Ordinance are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any Court of competent jurisdiction, such decision of this court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this ordinance. It is hereby declared to be the intent of the Board that this ordinance would have been adopted if such illegal, invalid, or unconstitutional section, sentence, clause, part, or provision had not been included herein.

Section 10. This Ordinance shall take affect and be in force from and after its approval as required by law.

Enacted by the Board of Commissioners of the Township of Lower Merion this_____ day of_____, 2017.

BOARD OF COMMISSIONERS OF THE
TOWNSHIP OF LOWER MERION

Daniel S. Bernheim, President

ATTEST:

Jody L. Kelley, Secretary