

55-30 WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS.
[Added 7-21-03 by Ord. No. 2003-18]

- A. *Purpose.* The purpose of this section is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this section are to: (1) protect residential areas and land uses from potential adverse impacts of towers and antenna; (2) encourage the location of towers in nonresidential areas; (3) minimize the total number of towers throughout the community; (4) strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; (5) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; (6) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; (7) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently; (8) consider the public health and safety of communication towers; and (9) avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the Township of Barnegat shall give due consideration to the Township's Master Plan, Zoning Map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

- B. *Definitions.* As used in this ordinance, the following terms shall have the meanings set forth below:

ALTERNATIVE TOWER STRUCTURE — Man-made trees, clock towers, bell steeples, light poles and similar

alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

ANTENNA — Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

BACKHAUL NETWORK — The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

FAA — The Federal Aviation Administration.

FCC — The Federal Communications Commission.

HEIGHT — When referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antennas.

PREEXISTING TOWERS AND PREEXISTING ANTENNAS — Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this section, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

TOWER — Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the

like. The term includes the structure and any support thereto.

C. Applicability.

- (1) New towers and antennas. All new towers or antennas in the Township of Barnegat shall be subject to these regulations, except as provided in Section 55-30C (2) through (4), inclusive.
- (2) Amateur radio station operators/receive only antennas. This section shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
- (3) Preexisting towers or antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this section, other than the requirements of Section 55-30D (6) and (7).
- (4) AM array. For purposes of implementing this section, an AM array, consisting of one or more tower units and supporting ground system which functions as one (1) AM broadcasting antenna, shall be considered one (1) 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.

D. General Requirements.

- (1) Principal or accessory use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

- (2) **Lot size.** For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
- (3) **Inventory of existing sites.** Each applicant for an antenna and/or tower shall provide to the Township Administrator an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Township of Barnegat or within one (1) mile of the border thereof, including specific information about the location, height, and design of each tower. The Township Administrator may share such information with other applicants applying for administrative approvals or special use permits under this section or other organizations seeking to locate antennas within the jurisdiction of the Township of Barnegat, provided, however that the Township Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- (4) **Aesthetics.** Towers and antennas shall meet the following requirements:
 - (a) 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.
 - (b) 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.

- (c) 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.
- (5) **Lighting.** 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.
- (6) **State or Federal requirements.** 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 antennas. In the Pinelands Area, all towers shall comply with the standards for local communications facilities in N.J.A.C. 7:50-5.4(c) and any comprehensive plan for such facilities approved by the Pinelands Commission pursuant to N.J.A.C. 7:50-5.4(c)6. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas 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 antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or

antenna at the owner's expense. [Amended 12-103 by Ord. No. 2003-39]

- (7) **Building codes; safety standards.** 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 Township of Barnegat 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.
- (8) **Measurement.** For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Township of Barnegat irrespective of municipal and County jurisdictional boundaries.
- (9) **Not essential services.** Towers and antennas shall be regulated and permitted pursuant to this section and shall not be regulated or permitted as essential services, public utilities, or private utilities.
- (10) **Franchises.** Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Township of Barnegat have been obtained and shall file a copy of all required franchises with the Township Administrator.

- (11) **Public Notice.** For purposes of this section, any special use request, variance request, or appeal of an administratively approved use or special use shall require public notice be given in accordance with the provision of the Land Use Ordinance, and the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.
- (12) **Signs.** No signs shall be allowed on an antenna or tower.
- (13) **Buildings and support equipment.** Buildings and support equipment associated with antennas or towers shall comply with the requirements of subsection F.
- (14) **Multiple antenna/tower plan.** The Township of Barnegat encourages the users of towers and antennas 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.

E. Permitted Uses.

- (1) **Permitted uses.** The following uses are specifically permitted:
 - (a) **Antennas or towers located on real property owned, leased, or otherwise controlled by the Township, provided a license or lease authorizing such antenna or tower has been approved by the Township, specifically to be located on Block 263, Lot 2, Township of Barnegat, New Jersey.** In the PA and PF Zones, antennas or towers shall be permitted only at the locations set forth in subsection F(2)(i) below. Although allowed as permitted uses, antennas and towers as described herein, shall require the issuance of a conditional use permit by the Township of

Barnegat Planning Board and/or the Barnegat Township Zoning Board of Adjustment. At the discretion of the Township, temporary communications facilities, also known as Cells on Wheels (COWs), can be permitted on the property described above after the award of a bid, or bids, for the placement of a permanent communications tower. COWs can be placed on the property after the execution of a site license agreement, approval of the installation(s) by the Township Engineer and issuance of an electrical/building permit by the Township. License agreements can be approved for periods of six (6) months and can be extended so long as the Township is satisfied that the permanent communications tower project is being processed in -a-normal fashion. [Amended 12-1-03 by Ord. No. 2003-39]

F. Conditional Use Permits.

- (1) General. The following provisions shall govern the issuance of conditional use permits for towers or antennas by the Planning Board:
 - (a) A conditional use permit shall be required for the construction of a tower or placement of an antenna in all zoning districts.
 - (b) Applications for conditional use permits under this subsection shall be subject to the procedures and requirements of Section 55200 of the Land Use Ordinance, except as modified in this Section.
 - (c) In granting a conditional use permit, the Planning Board may impose conditions to the extent the Planning Board concludes such conditions are -necessary to minimize any

adverse effect of the proposed tower on adjoining properties.

- (d) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
- (e) An applicant for a conditional use permit shall submit the information described in this subsection and a nonrefundable fee as established by ordinance of the Township Committee of the Township to reimburse the Township for the costs of reviewing the application.

(2) Towers.

- (a) **Information required.** In addition to any information required for applications for conditional use permits pursuant to Chapter 55-200 of the Municipal Land Use Ordinance, applicants for a conditional use permit for a tower shall submit 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), Master Plan classification of the site and all properties within the applicable separation distances set forth in subsection F(2)(e), 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

Planning Board to be necessary to assess compliance with this ordinance.

- [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] A landscape plan showing specific landscape materials.**
- [5] Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.**
- [6] A description of compliance with subsection D(3), (4), (5), (6), (7), (10), (12) and (13) and subsection G(2)(d) and (e) and all applicable Federal, State or local laws.**
- [7] A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.**
- [8] 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 municipality.**
- [9] 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.

[10] For applications in the Pinelands Area, a description of the relationship of the proposed tower to any comprehensive plan for local communication facilities which has been approved by the Pinelands Commission pursuant to N.J.A.C. 7:50-5.4(c). [Added. 12-1-03 by Ord. No. 2003-39]

[11] For applications in the Pinelands Area, a notarized statement indicating that the applicant will abide by the provisions of "Exhibit B Co-location Opportunities for Wireless Providers in the Pinelands" contained in the Comprehensive Plan for Wireless Communications Facilities in the Pinelands approved by the Pinelands Commission on September 11, 1998. [Added 12-1-03 by Ord. No. 2003-39]

(b) Factors considered in granting conditional use permits for towers. In addition to any standards for consideration of conditional use permit applications pursuant to Chapter 55-200 of the Land Use Ordinance, the Planning Board shall consider the following factors in determining whether to issue a special use permit, although the Planning Board may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Board concludes that the goals of this section are better served thereby:

[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; and
 - [8] Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in subsection F(2)(c) of this section.
- (c) Availability of suitable existing towers, other structures, or alternative technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning 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 Planning 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 presumed to render the technology unsuitable.

(d) **Setbacks.** The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the Planning Board may reduce the standard setback requirements if the goals of this section would be better served thereby:

[1] The tower shall be set back a distance sufficient to meet all front, rear and sideline setback requirements as set forth in the Zoning and Land Use Ordinances of the Township, applicable to the zone in which the property is located.

[2] Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

(e) **Separation.** The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the Planning 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, except as otherwise provided in Table 1.

[JD] Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1:

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

¹Includes modular homes and mobile homes used for living purposes.

²Separation measured from base of tower to closest building setback line.

³Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multifamily 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.

[b] Table 2: Existing

Towers - Types

	Lattice	Guyed	Monopole 75 Ft. in Height or Greater	Monopole Less Than 75 Ft. in Height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 feet in height or greater	1,500	1,500	1,500	750
Monopole less than 75 feet in height	750			

Security fencing. Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an

appropriate anti-climbing device; provided however, that the Planning Board may waive such requirements, as it deems appropriate.

(g) Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Planning 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] In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.

[3] Existing mature tree growth and natural land forms 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.

(h) Maximum height. In the Pinelands Area, no tower shall exceed one hundred seventy (170) feet in height and all towers shall be designed so that their height may be increased to one hundred seventy (170) feet if necessary to accommodate the needs of other wireless

telecommunications facilities in the future.
[Added 12-1-03 by Ord. No. 2003-39]

(i) [Added 12-1-03 by Ord. No. 2003-39] In the PA and PF Zones, new wireless telecommunications facility towers shall be permitted only at the following locations:

- [1] On developed publicly owned lands, provided that the tower will be located on previously disturbed lands that have not subsequently been restored and that no tower will be located on State, County or municipal conservation lands, State recreation lands or County and municipal lands used for low intensity recreational purposes;
- [2] On the parcel of an approved resource extraction operation, provided that the tower will be located on previously disturbed lands that have not subsequently been restored;
- [3] On the parcel of an existing first aid or fire station; or
- [4] On the parcel of an existing landfill, provided that the facility will be located on previously disturbed lands have not subsequently been restored.

(j) [Added 12-1-03 by Ord. No. 2003-39] If the search area for a proposed new tower facility contains lands located both inside and outside the Pinelands Area or lands in more than one (1) Pinelands management area, the applicant shall seek to site the facility in accordance with the following hierarchy, with the first designation being the location of greatest preference;

- [a] Outside the Pinelands Area;
- [b] The Pinelands Regional Growth Area;
- [c] The Pinelands Preservation Area, Pinelands Forest Area and Pinelands Village of Brookville.

G. Buildings or Other Equipment Storage.

- (1) Antennas mounted on structures or rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following:
 - (a) The cabinet or structure shall not contain more than three hundred (300) square feet of gross floor area or be more than twelve (12) feet in height.
 - (b) 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 fifteen percent (15%) of the roof area.
 - (c) Equipment storage buildings or cabinets shall comply with all applicable building codes.
- (2) Antennas mounted on utility poles or light poles. The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:
 - (a) In, commercial or industrial districts the equipment cabinet or structure shall be no greater than three hundred (300) square feet of gross floor area, and a height of no more than twelve (12) feet. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least thirty-six (36) inches. In all other instances, structures or cabinets shall be screened from view of all

residential properties which abut or are directly across the street from the structure or cabinet by a solid fence eight (8) feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least thirty-six (36) inches.

- (3) Antennas located on towers. The related unmanned equipment structure shall not contain more than three hundred (300) square feet of gross floor area or be more than twelve (12) feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.

H. Removal of Abandoned Antennas 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 Township of Barnegat notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower. If the tower is being used for municipal communications purposes, or if the Township foresees using the tower in the future, then the Township may opt to have the tower transferred to the Township. Upon the dismantling and removal of a tower in the Pinelands Area, the property on which the tower was located shall be restored in accordance with N.J.A.C. 7:50-6.24. [Added 12-1-03 by Ord. No. 2003-39]

I. Nonconforming Uses.

- (1) Not expansion of nonconforming use. Towers that are constructed, and antennas that are installed, in

accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

- (2) **Preexisting towers.** 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 ordinance.
- (3) **Rebuilding damaged or destroyed nonconforming towers or antennas.** Notwithstanding subsection I, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit and without having to meet the separation requirements specified in subsection F(2)(d) and (e). 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 one hundred eighty (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 H.

J. *Permitted Height.* Antennas and towers may not exceed the maximum height of one hundred seventy (170) feet. Towers and antennas however are exempted from the maximum building height permitted pursuant to the Barnegat Township Land Use Ordinances. [Added 121-03 by Ord. No. 2003-391