

EXPLANATION: This Ordinance amends the regulation of the location and construction of wireless telecommunication equipment and facilities with the Township pursuant to New Jersey and Federal law.

**TOWNSHIP OF BEDMINSTER**

**ORDINANCE NO. 2010 - 005**

AN ORDINANCE AMENDING SECTION 13-522 ENTITLED “WIRELESS TELECOMMUNICATIONS EQUIPMENT AND FACILITIES” OF CHAPTER XIII ENTITLED “LAND MANAGEMENT” OF *THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF BEDMINSTER*, TO UPDATE AND REVISE THE TOWNSHIP’S REGULATION OF THE LOCATION AND CONSTRUCTION OF WIRELESS TELECOMMUNICATION EQUIPMENT AND FACILITIES WITHIN THE TOWNSHIP.

**WHEREAS**, the Township of Bedminster has received and expects to continue to receive requests for the location and construction of wireless telecommunications towers and antennas within the Township boundaries, including from Verizon Wireless on May 21, 2009, and Sprint Spectrum and Metro PCS on June 3, 2009; and

**WHEREAS**, the Township finds that, at appropriate locations that minimize impact on residential areas, it is in the public interest to permit the location of wireless telecommunications towers and antennas within the Township boundaries, subject to reasonable regulation; and

**WHEREAS**, the Federal Telecommunications Act of 1996 (the “Act”), which governs the construction and placement of wireless telecommunications facilities, specifically 47 U.S.C. §332, preserves local government authority to enforce zoning requirements regarding the placement, construction and modification of such facilities; and

**WHEREAS**, the Township Committee of the Township of Bedminster finds that while it must accommodate the communication needs of the general public, Township residents and businesses, it must also, to the extent within its jurisdiction, continue to safeguard the zoning Ordinances and Master Plan, along with ensuring the preservation of the aesthetics and property values of the Township; and

**WHEREAS**, the Township Committee further finds and encourages that the co-location and allocation of wireless telecommunication antennas upon existing towers strongly serves these purposes; and

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Bedminster, in the County of Somerset and State of New Jersey as follows:

1. Section 13-522 entitled “Wireless Telecommunications Equipment and Facilities” of Chapter XIII entitled “Land Management” of *The Revised General Ordinances of the Township of Bedminster*, is hereby supplemented and amended as follows: [New text in double underlined, deleted text in ~~striketrough~~]

### **13-522 WIRELESS TELECOMMUNICATIONS EQUIPMENT AND FACILITIES.**

**13-522.1 Purpose.** The purpose of this Section is to regulate the location and placement of wireless telecommunications towers, antennas, and other equipment and facilities within the Township of Bedminster. It is also the purpose of this Section, consistent with state and federal law, to establish guidelines for the siting of wireless telecommunications towers, antennas, and other equipment and facilities in order to:

- a. preserve the scenic and historic character of the countryside which the Bedminster Township Master Plan and zoning ordinance seek to protect, including historic sites, villages and hamlets and designated scenic corridors; and
- b. provide that such facilities are properly located, carefully designed and screened using landscaping, fencing and industry available camouflaging techniques to blend with the existing natural or built surroundings so as to minimize adverse visual impacts; and
- c. protect and minimize the impact upon residential areas from any possible adverse impacts of towers and antennas, including through the use of stealth technology, and by encouraging the location of such equipment to non-residential areas; and
- d. minimize the total number of towers throughout the Township; and
- e. strongly encourage the joint use of new and existing towers rather than the construction of additional single-use towers; and
- f. encourage the location and siting of towers to limit, to the extent possible, the height of such towers; and
- g. encourage users of towers and antennas to locate them in areas where any possible adverse impact on the community is minimal; and
- h. enhance the ability of the providers of telecommunications services to provide such services to the community quickly and effectively; and
- i. avoid potential damage to adjacent properties from tower failure through engineering, careful location and setback standards for tower structures; and
- j. This section seeks to meet the mandate of the Telecommunications Act of 1996, while at the same time limiting the proliferation of wireless telecommunication towers.

**13-522.2 Definitions.** For the purposes of this section, the following terms shall have the meanings set forth below:

*Antenna* shall mean any interior or 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, wireless telecommunications signals or other communication signals.

*Backhaul network* shall mean the lines that connect a provider's towers and cell sites to one or more cellular telephone switching offices and/or long-distance providers or the public switched telephone network

*Coverage Gap* shall mean the need for additional capacity or service for state law purposes because of inadequate present capacity or service, dead spots, static and inability to place a call.

*Dead Spot* shall mean small areas within a service area where the field of strength is lower than the minimum level for reliable service or inadequate capacity exists as determined by expert testimony in accordance with industry standards.

*FAA* shall mean the Federal Aviation Administration.

*FCC* shall mean the Federal Communications Commission.

*Height* shall mean, when referring to a tower or other structure, the distance measured from the lowest finished grade of the base of the tower to the highest point on the tower or other structure, including the base pad and any antenna.

*Lattice Tower* shall mean a freestanding steel framework tower.

*Preexisting towers and antennas* shall mean any tower or antenna which has a construction permit or land use approval prior to the effective date of this Section, including permitted towers or antennas that have not yet been constructed, so long as such construction permit or land use approval is current and not expired, and including any tower or antenna on property owned, leased or otherwise controlled by the Township of Bedminster.

*Satellite Dish* shall mean any apparatus with a flat or parabolic surface which is designed for the purpose of receiving television, radio, microwave, satellite or similar electronic signals.

*Scenic Corridors* shall mean those scenic water courses and scenic roadways identified in “Figure 14 – Scenic Corridors” of the Bedminster Township 2003 Master Plan, as amended in 2005, and thereafter amended from time to time.

*Stealth Tower Structure* shall mean man-made trees, clock towers, bell steeples, silos, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers so as to blend in with the surrounding property characteristics, by using site appropriate color for the site.

*Tower* shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar wireless telecommunication purposes, including self-supporting lattice towers or monopole towers. The term shall also include radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like. The term includes the structure of the tower along with any support thereto.

*Wireless Telecommunications* shall mean any personal wireless services as defined in the Telecommunications Act of 1996 (the “TCA”), which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services, specialized mobile radio, enhanced specialized mobile radio, paging and similar services that exist or that may be developed in the future.

### **13-522.3 Applicability.**

- a. New Towers and Antennas. All towers or antennas in the Township of Bedminster shall be subject to these regulations, except as otherwise provided or grandfathered herein.
- b. Amateur Radio; 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.
- c. Preexisting Towers or Antennas. Preexisting towers or antennas shall not be required to meet the requirements of this Section, other than the requirements regarding building codes and safety standards. This exception shall not apply to any expansion or intensification of a preexisting tower or antenna.
- d. Government Agencies. Communication towers or antenna owned, operated or used by the Municipal government shall be exempt from the requirements of this Section.
- e. Satellite Dish Antenna. This Section shall not govern any parabolic satellite antennas.

### **13-522.4 General Requirements.**

- a. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. Notwithstanding anything in this Chapter XIII to the contrary, a separate existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. If

a tower and its appurtenant structures constitute the sole use of the lot, the tower shall be deemed to be the principal use.

b. Lighting. For aesthetic and health reasons, towers shall not be artificially lighted.

c. 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 Telecommunications Industries Association and the Electronic Industries Association, as amended from time to time. If, upon inspection, the Township of Bedminster 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 sixty (60) days to bring such tower into compliance with such standards. Failure to bring towers and antennas into compliance with such codes and standards within sixty (60) days shall mean that the Township may, consistent with due process requirements, avail itself of any and all legal or equitable remedies, to seek the removal of the tower or antenna at the owner's expense or revocation of the certificate of occupancy.

d. Signs. No signs shall be allowed, with the exception of warning signs or other signs required by Federal, State or local law.

e. Multiple Antenna/Tower Plan. The Township of Bedminster encourages the users of towers and antennas to collocate antennas when technically feasible. Applications for approval of collocation sites shall be given priority in the review process, including deference in the granting of appropriate waiver requests pursuant to Section 13-522.14.

f. Compliance with Radiation Emission Standards. At the time of its application for development, the applicant shall demonstrate that the proposed antenna and related structures and equipment complies with all applicable state and federal regulations of electromagnetic radiation levels.

### **13-522.5 Permitted Use/Antennas.**

a. Notwithstanding anything in this Chapter XIII to the contrary, the installation or collocation of wireless telecommunications antennas on existing business, industrial, office or institutional structures, subject to site plan approval pursuant to the requirements set forth in under Section 13-803 of this Chapter, and consistent with the visual compatibility requirements of subsection 13-522.7 below, shall be a permitted use in all nonresidential and mixed use zone districts, provided that:

1. The antenna does not exceed ten (10) feet more than the maximum building height for the zone wherein the structure is to be located; and
2. The antenna complies with all applicable FCC regulations; and
3. The antenna complies with all applicable building codes; and
4. The antenna is designed through stealth technology to minimize or eliminate visual obtrusiveness to adjacent residential properties; and
5. The structure upon which the antenna is to be located meets all applicable zoning and bulk requirements and standards, or an appropriate variance is granted.

To minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, subject to the requirements herein.

b. Notwithstanding anything in this Chapter XIII to the contrary, the installation of wireless telecommunications towers shall not be a permitted use in any residential zone districts of this Township.

c. Wireless telecommunications antennas or towers located on property owned, leased or otherwise controlled by the Township of Bedminster shall be a permitted use in all zone districts, provided that a license or lease authorizing such antenna or tower has been approved by the Township Committee of the Township of Bedminster, and, as a condition of any such license or lease, the Township may require site plan approval or may exempt the applicant from site approval. The decision to extend such license or lease to an applicant shall be vested solely with the Township, and shall not be governed by this Section. The Township, in its absolute

discretion, reserves the express right to deny all use of its property for antennas or towers. Nothing in this section shall be construed as requiring any applicant to locate on property owned, leased or otherwise controlled by the Township. Preexisting towers and antennas are exempt from the application of this subsection.

### **13-522.6 Permitted Use/Towers.**

a. Notwithstanding anything in this Chapter XIII to the contrary, wireless telecommunications towers not located on existing structures, consistent with the visual compatibility requirements of subsection 13-522.7, and the standards of subsection 13-522.8, shall be a permitted use within all nonresidential and mixed use zone districts of this Township.

### **13-522.7 Visual Compatibility Requirements.**

a. All wireless telecommunications antennas and wireless telecommunications towers shall be located, designed and screened to blend with the existing natural or building surroundings so as to minimize visual impacts through the use of stealth technology, including color and camouflaging, architectural treatment, landscaping, and other available means, considering the need to be compatible with neighboring residences and the character of the community. Stealth tower structures shall be given preference.

b. Towers shall either maintain a galvanized steel finish or be painted a neutral color, so as to reduce visual obtrusiveness.

c. At the wireless telecommunications equipment building, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend the tower facilities to the natural setting and surrounding buildings.

d. Towers must be designed to preserve scenic vistas and views of cultural and history landmarks and of unique geographic and topographic features. Natural features such as trees, hilltops and views, natural terrain, open waters and natural drainage ridge lines shall be preserved whenever possible in locating and designing a tower. Towers shall further be designed and located to minimize impact on open space and Green Acres properties.

e. 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. Antennas which are flush mounted and painted to match existing structures, and antennas that are ballast mounted and also painted to match the roof area, shall be considered stealth technology uses. The related unmanned equipment structure shall be in a building consistent in style with adjacent buildings, and shall be located in accordance with the minimum accessory structure bulk requirements of the zoning district in which located. Cable to the tower should be installed underground. Trailers are not permitted. The equipment cabinet or structure used in association with antennas mounted on structures or rooftops shall comply with the following:

1. The building or structure shall be located, designed and screened to blend with the existing natural or building surroundings so as to minimize visual impacts through the use of stealth technology.
2. The building or structure shall not contain more than 1,600 square feet of gross floor area or be more than fifteen (15') feet in height.
3. 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 10% of the roof area.
4. Equipment storage buildings or cabinets shall comply with all applicable building codes.

f. The wireless telecommunications equipment building shall not exceed ten (10') feet for flat roofs or fifteen (15') feet for pitched roofs, which shall have a minimum vertical rise of six (6") inches for every twelve (12") inches of horizontal run, and the building must blend architecturally with any existing building on the property. Pitched roofs shall be permitted only where the applicant is proposing a structure designed to blend with the local architectural context (such as rural or agriculture style).

g. One wireless telecommunications equipment building consisting of no more than one thousand, six hundred (1,600) square feet may be erected in support of such antenna arrays provided it is:

1. Situated behind existing structures, buildings or terrain features which will shield the wireless telecommunications equipment compound from views from off-tract properties; or
2. When a location out of the view from off-tract properties is not possible, appropriate foundation planting shall be provided outside the wireless telecommunications equipment building.
3. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived by the approving authority if the goals of this ordinance would be better served thereby. 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.
4. An individual wireless carrier shall not occupy more than four hundred (400) square feet of the equipment building.

**13-522.8 Use Variance Standards and Required Proofs for the Location of Wireless Telecommunications Antennas or Towers.**

a. In addition to the general standards and requirements pursuant to this Chapter, for the construction of wireless telecommunications antennas or towers when a use variance is sought, the approving authority shall consider all of the following factors

1. Height of the proposed antenna or tower.
2. Proximity of the antenna or 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 antenna or tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
7. Proposed ingress and egress on the property.
8. Availability of suitable existing towers, other structures or alternative technologies, within the applicant's control and use, not requiring the use of towers or structures.
9. Availability of proposed tower to other potential users.
10. Whether the proposed site is particularly suited for the proposed antenna or tower.
11. Number of residential properties impacted by the proposed antenna or tower.
12. Impact on the surrounding residential real estate values.

b. An applicant desiring to construct a wireless telecommunication antenna or tower that requires a use variance shall provide a sufficient showing to the satisfaction of the approving authority that it meets the following specific conditions:

1. Need. Present documentary evidence regarding the need for wireless telecommunications antennas at the proposed location. This information shall identify the wireless network layout and coverage areas to demonstrate the need for new equipment at a specific location within the Township.
2. Co-location. Provide documentary evidence that a good faith and thorough attempt has been made to co-locate the new antennas on existing buildings, structures, or towers that have existing wireless telecommunication antenna (sharing the location with an existing antenna(s)) within the applicant's coverage area. Efforts to secure authority to co-locate on such locations shall be documented through correspondence by or between the wireless telecommunications provider and the property owner of the existing building, structure, or tower. This requirement includes co-location on buildings, structures and towers currently being developed.
3. Comply with the Township standard that no wireless telecommunications towers shall be permitted which would require lighting affixed thereto under FCC, FAA or any other governmental agency regulations or requirements.
4. Compliance with the required proofs and bulk requirements as set forth in subsection 13-522.8(c), (d), and (e).

- (a) Specifically as to the bulk requirement for height, proofs must be provided as to explain why the proposed antenna or tower is proposed to be constructed at the specified height.

c. Proofs under State law for Use Variances. Before any new wireless telecommunications antenna or tower that is not a permitted use is approved within the Township of Bedminster, the applicant must provide expert proof, to the satisfaction of the approving authority, of at least the following:

1. That the proposed antenna or tower will fill a coverage gap in the least intrusive manner;
2. That the applicant has made good faith and thorough efforts to investigate reasonable designs within the applicant's control and use, and alternate sites which may be less intrusive in the community;
3. That the proposed site and facility is particularly suited and is needed for telecommunications services; and
4. That the existence of any coverage gap has been demonstrated by drive test data or propagation maps or both.
5. A crane test may be required by the Approving Authority to provide the public and the Approving Authority with the opportunity to view and judge the impact of the proposed tower.

d. Availability of Suitable Existing Towers, Other Structures or Alternative Technology. No new tower shall be approved unless the applicant demonstrates, through credible expert testimony, to the reasonable satisfaction of the approving authority, that no existing tower structure can accommodate the applicant's proposed antenna. To the extent possible, an applicant shall submit information requested by the approving authority related to the availability of suitable existing towers, stealth tower structures, or other available structures. These requirements shall include towers or structures currently being developed and those subject to pending applications before the Township approving authorities. Evidence submitted to demonstrate that no existing tower structure, within the applicant's control and use, can accommodate the applicant's proposed antenna must consist of the following:

1. Documentation regarding the block and lot of any parcel for which the wireless provider has attempted to secure a lease or purchase agreement, including copies of such agreements and all correspondence by or between the wireless provider and the property owner.
2. That no existing towers or structures are located within the RF propagation area which meet the applicant's engineering requirements.
3. That existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
4. That existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
5. That 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.
6. That the applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
7. That the applicant demonstrates efforts to site new wireless antennas, equipment or towers within the applicant's search area according to the priority schedule below. Regardless of the type and number of variances which may be required for a particular application, stealth towers, co-location with other antennas and siting upon pre-existing structures is given priority. When considering sites according to this schedule, the applicant must demonstrate that it has conducted a good faith effort to seek alternative sites that are available in the preceding priority categories in order to qualify for location in a subsequent priority category. The applicant must demonstrate that less intrusive alternative sites are not available as well with regard to the requested category.
8. New antennas in existing structures designed to blend in with the surrounding property characteristics and to conceal view of the antennas and associated equipment from adjacent streets or rights-of-way, shall not require site plan approval. Such antennas and associated equipment shall only require the applicable Uniform Construction Code permits.

Priority	Zone <sup>1</sup>	Equipment	Location	Permitted (P) or
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				or Not Permitted (NP) <sup>2</sup>
1	Commercial / Transportation	Antenna	Co-location with other antennas on existing buildings or towers within a transportation corridor	P
2	Commercial / Transportation	Antenna	On existing buildings or towers within a transportation corridor	P
3	Commercial	Antenna	Co-location with other antennas on existing buildings or towers	P
4	Commercial	Antenna	On existing buildings or towers	P
5	Mixed Use / Transportation	Antenna	Co-location with other antennas on existing buildings or towers within a transportation corridor	P
6	Mixed Use / Transportation	Antenna	On existing buildings or towers within a transportation corridor	P
7	Mixed Use	Antenna	Co-location with other antennas on existing buildings or towers	P
8	Mixed Use	Antenna	On existing buildings or towers	P
9	Residential / Transportation	Antenna	Co-location with other antennas on existing buildings or towers within a transportation corridor	P
10	Residential / Transportation	Antenna	On existing buildings or towers within a transportation corridor	P
11	Residential	Antenna	Co-location with other antennas on existing buildings or towers	P
12	Residential	Antenna	On existing buildings or towers	P
13	Commercial / Transportation	Tower	Construct a tower within a commercial, non-scenic transportation corridor	P
14	Commercial	Tower	Construct a tower in a commercial area	P
15	Mixed Use / Transportation	Tower	Construct a tower within a mixed use, non-scenic transportation corridor	NP
16	Mixed Use	Tower	Construct a tower in a mixed use area	NP
17	Residential / Transportation	Tower	Construct a tower within a residential, non-scenic transportation corridor	NP
18	Residential	Tower	Construct a tower in a residential area	NP

<sup>1</sup>“Commercial” includes the OR, and OR-V zones.

“Mixed Use” includes the OP, VN, VN-2 and VN-3 zones.

“Residential” includes the R-10, R-3, R-2, R-1, R-1/2, VR-100, VR-80, SFC, SFC-RD, PRD, MF, SCH, P and PUD zones.

“Transportation” means the lot has frontage on Route 202, 206, I-287 or I-78.

<sup>2</sup> “Not Permitted (NP)” shall require a use variance.

e. Bulk Requirements. No new antenna or tower, or modification to an existing antenna or tower, shall be permitted unless the applicant shall satisfy the specific design standards enumerated below, in addition to other standards that may be required pursuant to the applicable zoning district, Construction Code, and other applicable Federal, State or municipal regulations:

1. Height.
  - A. The maximum height of towers (exclusive of lightning rod) shall be:
    - For a single user up to 120 ft.
    - For two users up to 130 ft.
    - For three or more users up to 150 ft.
  - B. An existing tower may be modified or rebuilt to a greater height, but not to exceed the maximum tower height set forth above.
2. Setbacks. The following setback requirements shall apply to all towers for which a variance or conditional use permit is required:
  - A. Towers must be set back a distance equal to at least 100% of the height of the tower from any adjoining lot line and all nonappurtenant buildings to ensure public safety in the event of a collapse or fall of the tower,

- provided that distance is no closer than the building setback applicable to the zoning district.
- B. Accessory buildings must satisfy the minimum zoning district setback requirements.
  - C. No tower shall exist within required buffer or conservation easement areas.
3. Separation distance from tower to tower.
    - A. No tower shall be within 1,500 feet of another tower. Tower separation shall be measured from the base of the tower to the base of the other tower.
  4. Access to Tower Site. The following requirement shall govern access to towers:
    - A. The access road to the tower must be curved to minimize the view of the tower building and equipment from the public right-of-way and no new road cuts are allowed if there is existing road or driveway access. No portion of the tower road or driveway access should be allowed in the required front or side yard in any zone district.
  5. In addition to the above conditions, an applicant must satisfy all other conditions for site plan approval set forth in this Chapter.

**13-522.9 Application Requirements for the Installation of Wireless Telecommunications Antennas and Towers.**

a. Except as set forth in Section 13-522.8d.8, no wireless telecommunications antenna or tower shall be constructed or erected unless site plan approval and any and all applicable variances are obtained from the appropriate Township approving authority. The following provisions shall apply to applications for such approval:

1. Applications for site plans, along with any required variances under this subsection, shall be subject to the procedures and requirements of Chapter XIII, Land Management, of the Township Code, except as modified in this subsection.
2. In granting site plan approval or a variance, the approving authority may impose conditions to the extent the approving authority concludes such conditions are necessary to minimize any adverse effect of the proposed antenna or tower on adjoining properties.
3. Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical, shall be certified by a licensed professional engineer of the State of New Jersey, if a licensing requirement for that professional exists in New Jersey.
5. An applicant for site plan approval or a variance shall submit the information described in this subsection and a non-refundable application fee and an escrow deposit as established by the Township Committee of the Township of Bedminster. The application fee and escrows shall be paid as required herein.
6. Any tower must be designed and constructed so as to accommodate at least four antenna arrays of separate wireless telecommunications providers. The approving authority may require that the tower be designed and constructed so as to accommodate up to four antenna arrays of separate wireless telecommunications providers where such accommodation is technically feasible.

b. In addition to any and all information required for applications for site plan approval or a variance pursuant to this Chapter, applicants for approval for the construction or installation of wireless telecommunication antennas and towers shall submit all of the items identified on the application checklist found at the end of this Chapter, along with the following information before the application is certified as complete. Applications for site plan approvals involving collocation on existing towers or antennas on existing roofs or structures (“CETAERS”) are directed to consider pursuant to Section 13-522.14 any appropriate requests for waivers.

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), 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 as required by this or other Township ordinances, or as required by the Township or Board Engineer, to enable comprehensive review of the application.

2. Survey of the property, including a Letter of Interpretation from the New Jersey Department of Environmental Protection, signed and sealed by a land surveyor licensed in the State of New Jersey, dated no earlier than twelve months prior to the date of the application (“LOI”). An LOI is not required for CETAERS
3. The separation distance between the proposed tower and the nearest residential unit and/or residentially zoned property.
4. The separation distance from other towers described in the inventory of existing sites submitted pursuant to this subsection shall be shown on an updated site plan or map certified by a licensed engineer or licensed land surveyor. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s).
5. A landscape plan showing specific landscape materials and precise locations of proposed landscaping improvements, including, but not limited to, species type, size, spacing, other landscape features, and existing vegetation to be retained, removed or replaced, certified by a licensed engineer or certified landscape architect.
6. An Environmental Impact Study, except not required for CETAERS.
7. A plan evidencing the development’s compliance with the visual compatibility requirements of subsection 13-522.7, including, but not limited to, the architecture, aesthetics, color, camouflage, landscaping and fencing.
8. A written report of the suitability or unsuitability of the use of existing towers, other structures, for services to be provided through the use of the proposed new antenna or tower, except not required for CETAERS.
9. A written report of the feasible location(s) of future towers or antennas, which may be erected by the applicant, within the Township, based upon existing physical engineering, technological or geographical limitations in the event that the proposed antenna or tower is erected.
10. A visual study, including photographic or topographic plans, identifying a line of sight analysis detailing the view of the proposed antenna or tower from various directions and angles from adjacent areas within a 750' radius of the proposed antenna or tower. The analysis shall be utilized to determine buffer requirements.
11. Documentary and expert evidence regarding the need for the tower, which information shall identify the existing wireless network layout and existing coverage areas to demonstrate the need for the facility at a particular location within the Township. The evidence shall include a report of the radio frequency engineering analysis of the search area for the tower.
12. A report from a qualified expert certifying that the wireless telecommunications tower and equipment facility comply with the latest structural and wind loading requirements as set forth in the Building Officials and Code Administrators (BOCA) International, Inc. Code, including a description of the number and type of antennas it is designed to accommodate.
13. A statement by the applicant demonstrating that construction of the tower will accommodate co-location of additional antenna for future users. If so, a letter of commitment by the applicant to lease excess space on the tower to other potential users at prevailing market rates and conditions. The letter of commitment shall be recorded prior to issuance of a building permit. The letter shall commit the tower owner and successors in interest.
14. Elevations of all existing and proposed structures, generally depicting all existing and proposed antennas, towers, platforms, finish materials, and all other accessory equipment.
15. A copy of the lease (with confidential or proprietary information redacted) or deed for the property.
16. Inventory of Existing Sites. Each applicant shall provide to the approving authority an inventory of its existing towers and antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Township of Bedminster or within three miles of the proposed tower site, whichever is more extensive, including specific information about the location, height and design of each tower. The approving authority may share such information with other applicants applying for administrative approvals or permits under this section or other organizations seeking to locate antennas within the jurisdiction of the Township of Bedminster; provided, however, that the approving authority is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

17. Identification of the entities providing the backhaul network for the antenna and/or tower described in the application and other cellular sites owned or operated by the applicant in the municipality.
18. Documentation of the results of any crane test undertaken for the proposed tower, including a line-of-sight survey and photographic resulting of the crane test with regard to the potential visual and aesthetic impacts of the proposed tower. Such documentation must establish the zone of visibility of the proposed tower.
19. Photosimulations of the proposed tower, which shall include at least one photosimulation from at least four angles of view of the tower (from the north, east, south and west), taken from ground level at the property line of the proposed site of the tower. Photosimulations presented to the approving authority shall be in color and a minimum of 8" x 11" in size.

**13-522.10 Antenna or Tower Modifications.**

Whenever wireless telecommunication antennas or towers are modified, operators of wireless telecommunications facilities shall provide to Bedminster Township a report from a qualified expert certifying that the wireless telecommunications tower or building or other support structure as modified complies with the latest structural and wind loading requirements as set forth in the Uniform Construction Code.

**13-522.11 Abandoned/Discontinued Antenna or Tower.**

a. Operators of wireless telecommunications facilities shall, as set forth in 13-522.11b., notify the Township when the use of such antenna and equipment is discontinued.

b. Any antenna or tower that is not operated for a continuous period of 18 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within 90 days of such discontinued use or abandonment.

c. If there are two or more users of a single tower, then this subsection shall not become effective until all users cease utilizing the tower.

d. The Township shall condition the issuance of any permit to construct a tower or antenna on the recording by the applicant of a deed to itself with the memorializing resolution of approval annexed as a schedule thereto.

e. Upon removal of the wireless telecommunications facilities, the site shall be cleared, restored, and revegetated to blend with the existing surrounding vegetation at the time of abandonment.

**13-522.12 Existing Nonconforming Antennas or Towers; Damaged.**

Nonconforming antennas or towers that are damaged or destroyed may not be rebuilt without having to first obtain approval from the approving authority and without having to meet the separation requirements specified in this Section. The type, height and location of the tower on site 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.

**13-522.13 Application and Escrow Fees.**

Site plan application fees and escrows for wireless telecommunications installations shall be as set forth in Section 13-901 of this Chapter. The applicant will deposit in an escrow account with the Township the fees that the approving authority requires to review and advise on the application, including, but not limited to, expert witnesses such as engineers, planners, appraisers, and radio frequency professionals. The approving authority shall contract and hire an attorney, engineer, planner, appraiser and radio frequency professional with expertise in the field of wireless telecommunications to review and advise on each application subject to this Section.

**13-522.14 Waivers.**

Pursuant to N.J.S.A. 40:55D-10.3, an applicant may request that one or more submission requirements be waived, in which event, the Board shall grant or deny the request within 45 days. Waiver requests for collocation and antennas on existing roofs and structures will be subject to liberal consideration.

2. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Township of Bedminster, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Township of Bedminster are hereby ratified and confirmed, except where inconsistent with the terms hereof.

4. This Ordinance shall take effect immediately upon final passage and publication according to law.

Introduced by: Committeewoman Sally Rubin on February 1, 2010  
Passed: February 1, 2010  
Published: February 4, 2010  
Adopted:

ATTEST:

**TOWNSHIP COMMITTEE OF  
THE TOWNSHIP OF BEDMINSTER**

\_\_\_\_\_  
Judith Sullivan, Township Clerk

By: \_\_\_\_\_  
Robert Holtaway, Mayor