

TOWNSHIP OF BORDENTOWN

AN ORDINANCE OF THE TOWNSHIP OF BORDENTOWN REGULATING TELECOMMUNICATION TOWER SITES IN THE TOWNSHIP OF BORDENTOWN

ORDINANCE NO. 2002-07

WHEREAS, the Township Committee of the Township of Bordentown seeks to provide enhanced telecommunications to the residents of the Township of Bordentown and surrounding areas while maintaining the quality of life for residents and property owners by protecting scenic vistas, lessening visual impacts, reducing noise and light, preserving natural and historic resources and limiting the number of tower sites in the municipality through collocation.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown, in the County of Burlington, the State of New Jersey, as follows:

1. Bulk and Use Requirements

- (a) *Principal or accessory use.* Antennas and towers may be either principal or accessory uses on the lots where they are to be erected. Notwithstanding any other township land use regulation, an existing structure on the same lot 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. If a tower and its appurtenant structures are not the sole use of the lot, the tower shall be deemed an accessory use.
- (b) *Maximum height of towers.* The maximum permitted height of a tower is 140 feet, except that the height may extend to 180 feet if more than one (1) set of commercial transmitting/receiving antennas are collocated. The measured height of the tower includes the antennas and any other appurtenances. The tower base shall be designed and constructed to allow for at least three (3) collocations.
- (c) *Fencing/security.* All towers shall be designed with anti-climbing devices to prevent unauthorized access. Additionally, any tower supporting cellular or other wireless antennas and any building enclosing related electronic equipment shall be surrounded by a non-climbable fence not greater than six (6) feet in height. The fence shall be bordered by not less than twenty (25) feet of stepped landscaping containing 60% conifer/evergreen trees 10 feet in height. All deciduous trees shall be specified using the approved planting list adopted

by Bordentown Township Planning Board. The landscaping shall be designed to obscure the tower base, appurtenant structures and fencing from view from the public right of way and adjacent lots. No towers, appurtenances or fences shall be permitted to install barbed or razor wire for any purpose.

(d) *Equipment shelters.* All electronic equipment shelter buildings, structures, appurtenances established in support of a new site to be devoted to wireless communications facilities shall be limited to an area not to exceed six hundred (600) square feet. In the event that the use of a site becomes shared with a collocating wireless communications provider, there shall be permitted a maximum increase in overall area of existing electronic equipment shelter buildings of two hundred (200) square feet for each such subsequent collocating wireless communications provider. Any proposed building, structure or appurtenance shall not be more than twelve (12) feet in height and only one such building, structure or appurtenance shall be permitted on the lot for each provider of communication services located on the site. Equipment buildings, structures or appurtenances shall be located at minimum fifteen (15) feet from the base of the structure and must be appropriately landscaped to minimize the visual impacts from the public right-of-way and/or neighboring properties.

(e) *Antennas on existing structures.* Equipment or antennas placed on existing structures shall extend no higher than twelve (12) feet above the structure, shall not exceed the over all height limitations of one-hundred-forty (140) feet, shall not extend beyond the sides of the existing structure by more than five (5) feet and shall not violate the setback requirements for the zone.

(f) *Antennas on existing towers.* Antennas may be placed on existing towers subject to the following:

- i. A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same type as the existing tower, unless otherwise approved by the Bordentown Township Planning Board or Zoning Board of Adjustment (hereinafter "the Board") through submission and approval of a formal site-plan application.
- ii. An existing tower may be modified or reconstructed to a taller height not to exceed the maximum tower height established in Section (b) above.

- iii. The height change referred to above may only occur one time per such additional user, up to a maximum of three (3) times per tower.
- iv. A tower which is reconstructed to accommodate the collocation of an additional antenna may not be moved without the approval of the Board.
- v. Only one (1) tower may be located at a Board approved site.

(g) *Minimum lot area.* Where the tower is the principal use, the required minimum lot area shall be one (1) acre unless zone in which the site is located requires a minimum lot size that is greater than one (1) acre. Where the tower is a accessory use the minimum lot area shall be two (2) acres. The dimensions of the entire lot shall control the determination of whether the parcel meets the area requirement even though the antenna or tower may be located on a leased premises less than the entire parcel. The construction of towers shall be permitted only as a conditional use in the HC, REO, CC, GC1, and GC2 zones. Location of towers in other areas is not compatible with the zoned uses and shall be discouraged. All zone district development regulations shall be complied with, including but not limited to setback requirements, lot coverage requirements and other such requirements. The owner/telecommunications provider shall own or leased sufficient land to provide for at least three (3) collocations on site.

(h) *Setbacks.* Setbacks from all property lines shall meet the most restrictive requirements of the HC, REO, CC, GC1, and GC2 zones in which the site is located or the height of the structure, whichever is greater. Where the tower site is located on a leased portion of a larger tract, the remainder of the tract shall, as a condition of site plan approval for the tower, be deed restricted to require that any buildings, structures or appurtenances erected on the remainder of the tract be located to maintain a minimum setback distance from the tower equal to the height of the tower.

(i) *Minimum distance.* The minimum distance to another tower should be at least 5,280 feet radius, unless the Board is convinced by testimonial and technical documentary evidence provided by the Applicant that a lesser distance is required.

(j) *Escrow.* The owner/telecommunication provider shall provide sufficient funds in escrow to enable the applicable land use board to obtain the services of a licensed planner, engineer, radio frequency engineer to review the site plan application. Fees shall be

established in accordance with Chapter 25:901.

2. Collocation

(a) Bordentown Township requires licensed telecommunications carriers to share telecommunications towers and sites where feasible and appropriate, thereby reducing the number of towers. Collocation must be permitted for other telecommunications providers, at a reasonable, market rate compensation to the property owner/primary telecommunications provider. When the denial of collocation on an approved tower, by the owner or telecommunications provider, will result in an application for approval of an additional tower, the matter shall be referred to the Board that approved the original site plan application for the site in dispute. The telecommunications provider seeking dispute resolution for collocation shall file a land use application and establish the appropriate escrow accounts. All such disputes over collocation on an existing approved tower shall be submitted to the appropriate Board for a determination of the reasonableness to permit access or appropriate compensation. The property owner/primary telecommunications provider shall be bound by the board's determination. The Board shall be entitled to engage the services of a market analyst to perform a market analysis to establish the reasonable compensation for collocation. Cost of the market analysis shall be charged to the escrow of the party seeking collocation. All towers shall be constructed to provide for at minimum three (3) collocations.

(b) Each applicant for a new telecommunication tower shall prove that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building or other structure (e.g. water towers) within a five (5) mile search radius of the proposed tower.

3. Design Standards

The site plan shall conform with the design standards in Chapter 25 of the Bordentown Township Land Use Development Ordinances. In addition to the requirements of Chapter 25, the following standards shall be met:

(a) *Aesthetics*. Towers and antennas shall, at the discretion of the Board, meet the following:

- i. Towers and antenna shall maintain a nonreflective galvanized finish subject to any applicable standards of the FAA or Board, or be painted a neutral color so as reduce the visual obtrusiveness. Telecommunication towers shall be of a monopole design unless the Board determines that an alternative design would better blend into the surrounding environment or unless the applicant demonstrates that it is technically infeasible to provide a monopole. Towers shall to the greatest extent possible use industry stealth technology, such as a tree-like mono-pole in highly visible areas.
- ii. At the tower site, the design of the buildings, structures or appurtenances shall, to the extent possible, use non-reflective materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding built environment. All buildings, structures or appurtenances shall be located behind existing structures, buildings, or terrain features will shield the buildings, structures and appurtenances from view.
- iii. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be a neutral, non-reflective color that is identical to, or closely comparable with, the color or the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- iv. *Lighting.* No lighting shall be permitted except as follows:
 - (a) A building, structure or appurtenance enclosing electronic equipment shall be permitted one (1) light attached at the entrance the building, structure or appurtenance and is switched so that the light is on only when workers are on site.
 - b) The light must be focused downward and shielded to the greatest extent possible to avoid light projection outside of the fenced enclosure.
 - (c) No lighting is permitted on the tower except lighting specifically required by the FAA.
- v. *State and Federal Requirements.* All towers must meet or exceed current standards and regulations of the FAA, the FCC and any other state or federal

agency with authority to regulate such uses. The towers shall not be located on sites listed on the New Jersey and/or National Registers of Historic Places or encroach upon scenic vistas or endangered species without the necessary state and federal authorization.

- vi. *Building Codes.* The tower, antenna, buildings, structures or appurtenances shall be constructed in compliance with the applicable national, state or local building codes and applicable standards for towers that are published by the Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision F Standard, entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures" as updated and amended.
- vii. *Signs.* No signs other than warnings, safety information and/or owner contacts limited to two feet square in area, shall be permitted on an tower, antenna, buildings, structures or appurtenances except as required by the FAA and FCC or other state and federal agencies.
- viii. *Parking and driveways.* Minimal off street parking and driveways shall be permitted as needed and approved by the appropriate land use board. The approved number of vehicles and parking spaces shall be approved as part of the site plan. The construction of all off street parking shall conform to the requirements of the zone in which the site is located.
- ix. *Interference.* No cellular or wireless communications shall be permitted to interfere with any public safety communications.
- x. *Noise.* Noise emanating from the site shall not exceed the limit set forth in Chapter 25 for the zoning district where the site is located.
- xi. *Generators.* Any generator located on the site shall be enclosed within a portion of the electronic equipment building, structure or appurtenance. Any fuel storage shall be done in compliance with federal and state regulations and shall be limited to fuel stored within the primary tank provided by the manufacturer of the generator. No auxiliary or supplemental fuel storage is permitted.
- xii. *Maintenance.* Wireless telecommunications antennas and towers shall be maintained to assure their continued structural integrity and appearance.

- xiii. *Annual Reports.* The telecommunications provider(s) shall report once a year, at the end of the calendar year, on usage of the tower over the previous year with a focus on whether the tower is no longer being used for the approved telecommunications purpose.
- xiv. *Facility abandonment.* All telecommunications towers, antenna, buildings, structures; or appurtenances that become obsolete or disused for the express purpose for which they were approved shall be removed by the provider and /or property owner within six months of cessation of its use for telecommunications. The site shall be cleared and restored. The tower and all supporting structure shall be removed to a point four (4) feet below grade. Any and all costs of removal shall be the sole responsibility of the provider and/or owner. In order to ensure compliance with these requirements the owner shall provide a performance bond sufficient to cover the removal of the tower, antenna, buildings, structures or appurtenances as well as restore the site. The amount of the performance guarantee shall be 120% of the estimated cost of removal and shall be subject to the approval of the Township Engineer. Failure to remove an abandoned tower or antenna shall entitle the Township to remove it at the owner's expense.

4. Additional Submission Requirements

Each submission and/or application for a tower and/or antenna shall include:

1. *Inventory of existing sites.* For each application for a tower and/or antenna, the applicant shall provide to the Board an inventory of all its existing towers, antennas, sites approved for towers or antennas, and plans for future towers and antennas that are within Bordentown Township and within five (5) miles of the border thereof, including specific information about the location, height, and design of each tower.
2. *Report.* A report from a qualified and licensed engineer that includes the following:
 - (a) description of tower height and design including cross section and elevation;
 - (b) description of the need for such a tower in the desired location; in the case of a new tower or, if use of a pre-existing tower is proposed, the need for such an additional antenna;

- (c) indication of the height above grade for all potential mounting positions for collocated antennas and the minimum separation distances between antennas;
- (d) description of the tower's capacity, including the number and type of antennas that it can accommodate; and
- (e) indication of what steps the applicant will take to avoid interference with established public safety communications.

5. Severability

If any section of this ordinance is declared unconstitutional by a court of competent jurisdiction, then the remaining sections shall remain in full force and effect.

Mark Roselli, Mayor

Colleen Cochran, Township Clerk