

**NOTICE IS HEREBY GIVEN** that Ordinance #14-7 was introduced and passed on first reading on regular meeting of the Mayor and Council on the 15<sup>th</sup> day of April, 2014, and that said Ordinance will be taken up for further consideration for final passage at a regular meeting of the Mayor and Council to be held on the 20<sup>th</sup> day of May, 2014, at 8:00 p.m. or as soon thereafter as said matter can be reached, at which time and place all persons who may be interested therein will be given an opportunity to be heard concerning same.

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Karen Hughes, Borough Clerk  
Borough of Westwood

### **ORDINANCE 14-7**

#### **AN ORDINANCE TO AMEND ARTICLE XVII, CHAPTER 195, ZONING OF THE BOROUGH OF WESTWOOD**

**BE IT ORDAINED** by the Mayor and Council of the Borough of Westwood, in the County of Bergen and State of New Jersey, that Chapter 195, Land Use and Development, Part 4 Supplementary Provisions, Article XVII Wireless Telecommunications Towers and Antennae's, is hereby amended and supplemented in the following particulars only (deleted sections are noted by ~~strikethroughs~~, new sections are **bold**):

Section 1. Amend Article XVII Wireless Telecommunications Towers and Antennae Regulations in its totality as follows:

#### **§ 195-138 Purpose.**

- A. The purpose of this article is to establish ~~general guidelines~~ **regulations** for the siting of wireless communications towers and antennas. The goals of this article are to:
- (1) Protect residential areas and land uses from potential adverse impacts of towers and antennas;
  - (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;~~  
**The land use policy of the Borough is to require collocation on 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; **and**
- ~~(8) Consider the public health and safety of communications towers; and~~
- (8)** ~~(9)~~ Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

B. In furtherance of these goals, the Borough of Westwood shall give due consideration to the Borough's Master Plan, Zoning Map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

**§ 195-139 Definitions.**

As used in this article, 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 antenna 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 communications 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 antenna.

**PREEXISTING TOWERS and PREEXISTING ANTENNAS**

Any tower or antenna for which a building permit or ~~special-use zoning~~ **zoning permit or site plan approval** has been properly issued prior to the effective date of this article, 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 communications 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.

**§ 195-140 Applicability.**

- A. New towers and antennas. All new towers or antennas in the Borough of Westwood shall be subject to these regulations, except as provided in Subsections B through D, inclusive.
- B. Amateur radio station operators/receive-only antennas. This article shall not govern any tower, or the installation of any antenna, that is under 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 and preexisting antennas shall not be required to meet the requirements of this article other than the requirements of § 195-141F and G.
- D. ~~AM array. For purposes of implementing this article, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.~~

**An applicant seeking to collocate wireless communication equipment on a wireless communication support structure or in an existing equipment compound that complies with each and every listed requirements detailed in N.J.S.A. 40:55D-46.2 and does not require variance approval shall be exempt from site plan review but shall be responsible to provide a Needs Analysis as defined herein and secure all necessary and required zoning and construction permits prior to implementing any modifications to the wireless communication equipment.**

**§ 195-141 General requirements.**

- A. 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.
- B. 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.
- C. Inventory of existing sites. Each applicant for an antenna and/or tower shall provide to the Planning/Zoning Board an inventory of ~~it's~~ **the** existing towers, antennas, or sites approved for towers or antennas that are either within the ~~jurisdiction~~ **corporate boundaries** of the Borough of Westwood or within one mile of the border thereof, including specific information about the location, height, and design of each tower. ~~The Planning/Zoning Board Borough~~ **may share such information with other applicants applying for administrative approvals or special-use zoning permits or site plan**

**approval** under this article or other organizations seeking to locate antennas within the ~~jurisdiction~~ **corporate boundaries** of the Borough of Westwood; provided, however, that the ~~Planning/Zoning Board~~ **Borough** is not, by sharing such information, in any way representing or warranting that such sites are available ~~or~~ suitable, **or that the information is accurate, complete and/or contemporary.**

- D. Aesthetics. Towers and antennas shall meet the following requirements:
- (1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
  - (2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
  - (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- E. 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.
- F. 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. If such standards and regulations are changed, then the owners of the towers and antennas governed by this article shall bring such towers and antennas into compliance with such revised standards and regulations within six 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.
- G. 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 and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Borough of Westwood 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 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- H. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Borough of Westwood, irrespective of municipal and county jurisdictional boundaries.
- I. Not essential services. Towers and antennas shall be regulated and permitted pursuant to this article and shall not be regulated or permitted as essential services, public utilities, or private utilities.
- J. 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 communications system in the Borough of Westwood have been obtained and shall file a copy of all required franchises with the Zoning Officer.
- K. Public notice. For purposes of this article, any ~~special use request~~, variance request, or appeal of an administratively approved use or ~~special use~~ **variance** shall require public notice to all abutting property owners **in strict accordance with the requirements contained in N.J.S.A.40:55D-12** and ~~all property owners of properties that are located within the corresponding separation distance listed in § 195-144B(5)(b), Table 2, in addition to any notice otherwise required by this chapter.~~
- L. Signs. No signs shall be allowed on an antenna or tower, **except for safety, warning or regulatory signs.**
- M. Buildings and support equipment. Buildings and support equipment associated with antennas or towers shall comply with the requirements of § 195-145.
- N. Multiple antenna/tower plans. The Borough of Westwood encourages the users of towers and antennas to submit a ~~single application~~ **comprehensive plan of proposed coverage** for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process **for all towers and/or antennae sites.**

**§ 195-142 Permitted uses.**

- ~~A. General. The uses listed in this section are deemed to be permitted uses and shall not require administrative approval or a special use permit.~~
- ~~B. Permitted uses. The following uses are specifically permitted:~~
  - ~~(1) Antennas or towers located on property owned, leased, or otherwise controlled by the Borough of Westwood, provided that a license or lease authorizing such antenna or tower has been approved by the Borough of Westwood.~~

**Siting preferences: Pursuant to the needs analysis required by item A. below, an application to install, construct, erect, move, reconstruct, or modify any wireless telecommunications antenna shall be subject to siting preferences as follows:**

- A. **If the Needs Analysis demonstrates that it is reasonably necessary to install, construct, erect, move, reconstruct, or modify wireless telecommunication antennae within the Borough of Westwood then, subject to all other permitted conditional use standards, the proposed wireless telecommunications antenna may be located upon an existing building or existing wireless telecommunications tower as a conditional use within the H Zone or upon municipal buildings, towers or properties. In all cases preference shall be given to municipal sites for wireless telecommunication antennae.**
  
- B. **If the Needs Analysis demonstrates that it is not reasonably practicable to install, construct, erect, move, reconstruct, and/or modify the proposed wireless telecommunications antenna upon an existing building or on an existing wireless telecommunications tower in accordance with §195-142A then, subject to all other permitted conditional use standards, the proposed wireless telecommunications antenna may be located or collocated upon a new wireless telecommunications tower to be constructed as a conditional use within the C, H, HSO, LM Zones, or on municipally owned facilities or properties.**

**§ 195-143 Administratively approved uses.**

The following uses may be approved by the Zoning Officer after conducting an administrative review:

- A. **Locating an tower or antenna, including the placement of additional buildings or other supporting equipment, including an increase in tower height used in connection with said tower or antenna, in any industrial or heavy commercial zoning district, as authorized by N.J.S.A.40:55d-46.2.**
  
- ~~B. Locating antennas on existing structures or towers, consistent with the terms of Subsection B(1) and (2) below:~~
  - ~~(1) Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the Zoning Officer as an accessory use to any commercial, industrial, professional, institutional, or multifamily structure of eight or more dwelling units, provided:
 
    - ~~(a) The antenna does not extend more than 30 feet above the highest point of the structure;~~
    - ~~(b) The antenna complies with all applicable FCC and FAA regulations;~~
    - ~~(c) The antenna complies with all applicable building codes; *Editor's Note: See Ch. 129, Construction Codes, Uniform.* and~~
    - ~~(d) The antenna and any equipment buildings do not cause or increase zoning nonconformity.~~~~
  - ~~(2) Antennas of existing towers. An antenna which is attached to an existing tower may be approved by the Zoning Officer, and, 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, provided such collocation is accomplished in a manner consistent with the following:

(a) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the Zoning Officer allows reconstruction as a monopole.

(b) Height.

[1] An existing tower may be modified or rebuilt to a taller height, not to exceed 30 feet over the tower's existing height, to accommodate the collocation of an additional antenna.

[2] The height change referred to in Subsection B(2)(b)[1] may only occur one time per communications tower.

[3] The additional height referred to in Subsection B(2)(b)[1] shall not require an additional distance separation as set forth in § 195-144B(5). The tower's premodification height shall be used to calculate such distance separations.

(c) On-site location.

[1] A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved on site within 50 feet of its existing location.

[2] After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.

[3] A relocated on-site tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to § 195-144B(5). The relocation of a tower hereunder shall in no way be deemed to cause a violation of § 195-144B(5).

[4] The on-site relocation at a tower which comes within the separation distances to residential units or residentially zoned lands as established in § 195-144B(5) shall only be permitted when approved by the Zoning Officer.

C. Locating any new tower in a nonresidential zoning district other than industrial or heavy commercial, provided that a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant, the Zoning Officer concludes the tower is in conformity with the goals set forth in § 195-138 and the requirements of § 195-141, the tower meets the setback requirements in § 195-144B(4) and the separation distances in § 195-144B(5), and the tower meets the following height and usage criteria:

(1) For a single user: up to 90 feet in height;

(2) For two users: up to 120 feet in height; and

(3) For three or more users: up to 150 feet in height.

D. Locating any alternative tower structure in a zoning district other than industrial or heavy commercial that, in the judgment of the Zoning Officer, is in conformity with the goals set forth in § 195-138 of this article.

E. Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

## **§ 195-144 Conditional use regulations.**

A. General. The following provisions shall govern the approval of a conditional use pursuant to N.J.S.A. 40:55D-67 for towers or antennas by the Planning Board:

- ~~(1) If the tower or antenna is not a permitted use under § 195-142 of this article or permitted to be approved administratively pursuant to § 195-143 of this article, then approval of a conditional use pursuant to N.J.S.A. 40:55D-67 shall be required for the construction of a tower or the placement of an antenna in all zoning districts.~~
- (1) Applications for approval of a conditional use pursuant to N.J.S.A. 40:55D-67 under this section shall be subject to the procedures and requirements of § 195-45 of this chapter, except as modified in this section.
- (2) In granting approval of a conditional use pursuant to N.J.S.A. 40:55D-67, 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.
- (3) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical **of a site plan nature**, shall be certified by a licensed professional engineer.
- (4) An applicant for approval of a conditional use pursuant to N.J.S.A. 40:55D-67 shall submit the information described in this section and a nonrefundable fee, as established by resolution of the Governing Body of the Borough of Westwood, to reimburse the Borough of Westwood for the costs of reviewing the application.

B. Towers, antennas and ancillary structures.

- (1) Information required. In addition to any information required for applications for conditional use approval pursuant to § 195-45 of this chapter, applications for a conditional use approval for a tower, antenna or appurtenant structure shall submit the following information:
- (a) A scaled plan clearly indicating the location, type and height of the proposed tower, antenna or appurtenant structures, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), zoning ordinance classification of the site and all properties within the applicable separation distances set forth in § 195-144B(5) or within 200 feet, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower, antenna and appurtenant structures, topography, parking and other information deemed by the Zoning Officer to be necessary to assess compliance with this article.
- (b) Legal description of the parent tract and leased parcel (if applicable).

- (c) The setback distance between the proposed tower, antenna and appurtenant structures and the nearest residential unit.
  - (d) The separation distance from other towers described in the inventory of existing sites, submitted pursuant to § 195-141C, shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
  - (e) A landscape plan showing specific landscape materials.
  - (f) Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
  - (g) A description of compliance with § 195-141C, D, E, F, G, J, L and M, § 195-144B(4) and (5), and all applicable federal, state or local laws.
  - (h) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users. **Said statement shall be based upon an engineering study evaluating the structural stability and ability of the tower to accommodate the proposed additional antennae and shall be accompanied by the engineering study upon which the statement is based upon.**
  - (i) 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.
  - (j) 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.
  - (k) A description of the feasible location(s) of future towers or antennas within the Borough of Westwood, based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- (2) Factors considered in granting approval of a conditional use pursuant to N.J.S.A. 40:55D-67 for towers. In addition to any standards for consideration of applications for approval of a conditional use pursuant to N.J.S.A. 40:55D-67, and pursuant to § 195-45 of this chapter, the ~~Planning~~ Board shall consider the following factors in determining whether to approve a conditional use pursuant to N.J.S.A. 40:55D-67, although the Planning Board may waive or reduce the ~~burden~~ **requirements** on the applicant of one or more of these criteria if the Planning Board concludes that the goals of this article are better served thereby:
- (a) **Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Subsection B(3) of this section.**

- (b) Proximity of the tower to residential structures and residential district boundaries;
  - (c) Nature of uses on adjacent and nearby properties;
  - (d) Surrounding topography;
  - (e) Surrounding tree coverage and foliage; **and**
  - (f) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
  - ~~(f) Proposed ingress and egress; and~~
  - ~~(g) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Subsection B(3) of this section.~~
- (3) 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:
- (a) No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
  - (b) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
  - (c) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
  - (d) 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.
  - (e) 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.

- (f) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (g) 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.
- (h) Collocation inquiries and responses.

[1] The applicant shall have made a formal, bona fide inquiry as to the owner's willingness to enter into a collocation agreement to each and every owner of record of existing towers within the Borough of Westwood. Such an inquiry shall be made by certified mail and made no less than 120 days and **no more than 180 days** before the date the applicant's application is filed with the **Zoning Officer**, in writing, addressed to the president or registered agent of a corporation, the managing member of a limited-liability company or the owner of record as appearing on the tax records of the municipality for an individually owned site. As to municipal sites, any such inquiry **for collocation** shall be made via certified mail, return receipt requested, to the Borough Clerk **and Zoning Officer**. The inquiry shall state, in substance:

"The applicant seeks to install [describe nature of proposed antennas and/or towers] at [describe location], however, as you [the addressee] are the owner/operator of an existing site, we are hereby soliciting from you a statement of interest or noninterest in accommodating our antennas at your location."

**In addition, whenever an application to erect a new tower or antennae is made, a copy of the application and all supporting materials submitted to the Zoning Officer shall also be provided to the Mayor and Council by certified mail or other qualified means of delivery to the Borough at the time of the filing of the application.**

[2] In addition, the applicant shall furnish a copy of any written reply received from such an owner/operator or shall certify that no written response was received. If the response received was oral, the applicant shall certify the person from whom received and the substance of the reply.

- (4) Setbacks. The following setback requirements shall apply to all towers for which approval of a conditional use pursuant to N.J.S.A. 40:55D-67 is required; provided, however, that the Planning Board may reduce the standard setback requirements if the goals of this article would be better served thereby:

- (a) Towers must be set back a distance equal to ~~at least 75%~~ of the height of the tower, **plus 10% of the height of the tower** from any adjoining lot line.
  - (b) ~~Cais~~ **Supports** and accessory buildings must satisfy the minimum zoning district setback requirements.
- (5) Separation. The following separation requirements shall apply to all towers and antennas for which approval of a conditional use pursuant to N.J.S.A. 40:55D-67 is required; provided, however, that the Planning Board may reduce the standard separation requirements if the goals of this article would be better served thereby.
- (a) Separation from off-site uses/designated areas.
    - [1] 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.
    - [2] Separation requirements for towers shall comply with the minimum standards established in Table 1.

**Table 1: Separation Distances of Towers From Off-Site Uses/Designated Areas**

<b>Off-Site Use/Designated Area</b>	<b>Separation Distance</b>
Single-family or duplex residential units <sup>1</sup>	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, <sup>2</sup> whichever is greater
Vacant unplatted residentially zoned land <sup>3</sup>	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

**NOTES:**

- <sup>1</sup> Includes modular homes and mobile homes used for living purposes.
- <sup>2</sup> Separation measured from base of tower to closest building setback line.
- <sup>3</sup> Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multifamily residentially zoned land greater than duplex.

(b) Separation distances between towers.

[1] Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances

<b>Description</b>	<b><u>Lattice</u></b>	<b><u>Guyed or Cable Supported</u></b>	<b><u>Monopole 75 Feet in Height or Greater</u></b>	<b><u>Monopole Less Than 75 Feet in Height</u></b>
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	750	750	750

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

**Table 2: Separation Distances between Existing Towers (Linear Feet)**

- (6) Security fencing. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anticleimbing device; provided, however, that the Planning Board may waive such requirements as it deems appropriate.
- (7) Landscaping. The following requirements shall govern the landscaping surrounding towers for which approval of a conditional use pursuant to N.J.S.A. 40:55D-67 is required; provided, however, that the Planning Board may waive such requirements if the goals of this article would be better served thereby:
  - (a) 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 feet wide, outside the perimeter of the compound.
  - (b) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.

- (c) 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.

**C. Wireless telecommunications antennas: Wireless telecommunications antennas shall be consistent with the following requirements:**

- (1) Microwave dishes, cones, or other antennas used for the purpose of point-to-point microwave transmission or microwave links are prohibited, except for municipal emergency services.**
- (2) Side-arm mounted antennas, of any kind, are prohibited.**
- (3) Subject to the siting preferences set forth in section 195-142 above, wireless telecommunications antennas may be mounted on existing buildings or other structures or on wireless telecommunications towers, provided that:**
  - (a) Wireless telecommunications antennas mounted to a façade of a building are permitted only if designed to blend into the existing architectural detailing of the building. Wireless telecommunications antennas are permitted to be roof top mounted instead of façade mounted only if the analysis demonstrates the need for such a configuration and such roof mounted antennas employ stealth technology such as the use of appropriately colored shields or screens;**
  - (b) Wireless telecommunications antennas mounted on existing buildings or other structures shall comply with the height restrictions applicable to the particular zone;**
  - (c) Wireless telecommunications antennas mounted on wireless telecommunications towers shall not extend beyond the height limitations for such towers.**
  - (d) Wireless telecommunications antennas shall be constructed, finished, or painted to employ “stealth technology” to camouflage the antenna so as to minimize their visual impact on the landscape.**

**D. Wireless telecommunications towers shall be designed to comply with the following regulations:**

- (1) Wireless telecommunications towers shall be limited to monopole designs only. Freestanding lattice towers and guyed or cable supported towers of any kind are prohibited.**
- (2) To the maximum extent practicable, wireless telecommunications towers shall be designed to permit collocation of additional antennas.**

- (3) The maximum height of any wireless telecommunications tower, including any wireless telecommunications antennas or other equipment mounted thereon, shall be no higher than required to close the “significant gap in service” as provided by the Needs Analysis. However in no instance shall a wireless communication tower exceed 100 feet above grade. Municipal communication towers are exempt from this height restriction.
- (4) The minimum lot size on which a wireless telecommunications tower may be located is in accordance with the standards established by the Area and Bulk Regulations for the Borough of Westwood.
- (5) All wireless telecommunications towers shall be constructed, finished, or painted to employ “stealth technology” to camouflage the equipment compound, tower and antenna so as to minimize their visual impact on the landscape.

**§ 195-145 Buildings or other equipment storage.**

- A. ~~Antennas mounted on structures or rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following:~~
- ~~(1) The cabinet or structure shall not be located on the roof unless it is less than 50 square feet of gross floor area and less than six feet in height and the height of the building, including any such structure, is within the lawful building height limitations of the Borough of Westwood. [Amended 5-18-2010 by Ord. No. 10-10; 12-21-2010 by Ord. No. 10-30]~~
  - ~~(2) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 10% of the roof area.~~
  - ~~(3) Equipment storage buildings or cabinets shall comply with all applicable building codes. Editor's Note: See Ch. 129, Construction Codes, Uniform.~~
- B. ~~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:~~
- ~~(1) In residential districts, the equipment cabinet or structure may be located:
 
    - ~~(a) In a front or side yard, provided the cabinet or structure is no greater than six feet in height or 100 square feet in gross floor area, and the cabinet/structure is located a minimum of 75 feet from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with a planted height of at least 48 inches.~~
    - ~~(b) In a rear yard, provided the cabinet or structure is no greater than eight feet in height or 120 square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least eight feet and a planted height of at least five feet.~~~~
  - ~~(2) In commercial or industrial districts, the equipment cabinet or structure shall be no greater than 10 feet in height or 150 square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight feet and a planted height of at least five feet. 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 feet in height, or~~

~~an evergreen hedge with an ultimate height of eight feet and a planted height of at least five feet.~~

~~C. Antennas located on towers. The related unmanned equipment structure shall not contain more than 150 square feet of gross floor area or be more than 10 feet in height and shall be located in accordance with the minimum yard requirements of the zoning district in which it is located.~~

~~D. Modification of building size requirements. The requirements of Subsections A through C may be modified by the Zoning Officer, in the case of administratively approved uses, or by the Planning Board, in the case of uses approved as a conditional use pursuant to N.J.S.A. 40:55D-67, to encourage collocation. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 1).*~~

**A. Wireless telecommunications equipment and wireless telecommunications equipment compounds shall comply with the following regulations. All wireless telecommunications equipment shall be housed within a wireless telecommunications equipment compound, consistent with the following requirements:**

- (1) Wireless telecommunications equipment compounds shall be enclosed within a locked security fence not less than six feet (6') nor more than eight feet (8') in height, unless located within an existing building.**
- (2) No wireless telecommunications equipment compound or any wireless telecommunications equipment housed therein shall exceed fifteen feet (15') in overall height. If the wireless telecommunications equipment enclosure is to be installed on the rooftop of an existing building or structure then the facility shall not exceed 12 feet in height or occupy more than 300 square feet. If a higher or larger enclosure is deemed necessary such enclosure shall be located on the ground, not on a roof.**
- (3) Wireless telecommunications equipment compounds shall be constructed, finished, located or painted so as to minimize their visual impact on the landscape and view shed. Compounds or enclosures mounted on a building rooftop shall be screened and painted to match the architecture of the building.**
- (4) Reasonable efforts shall be employed to camouflage and minimize the visual impact of any wireless telecommunications technology installed or constructed pursuant to the provisions of this subsection.**

**B. Wireless telecommunications technology shall fully conform to all applicable Federal and State regulations and laws.**

**C. Routine maintenance of wireless telecommunications technology shall be limited to the hours of 7:00 a.m. to 7:00 p.m.**

- D. Notwithstanding other provisions of this Ordinance, wireless telecommunications technology may be located on a lot on which another principal building or structure is situated or on which there is no principal building or structure.**
- E. Setback Requirements for the Location of Wireless telecommunications technology.**
- (1) The minimum setback from any school lot line or other lot line on which a licensed educational facility is located shall be three hundred (300) feet.**
  - (2) The minimum setback from residential lot lines shall be one hundred (100) feet.**
  - (3) No wireless telecommunications technology shall be located in the front yard of any lot except that building mounted wireless telecommunications antenna may extend an additional two (2) feet into the otherwise required front yard when mounted on the façade of a building.**
- F. Additional Site Plan Requirements. In addition to compliance with all applicable zoning and site plan requirements, applications for approval of wireless telecommunications technology shall include the following:**
- (1) A driveway, turnaround, and one parking space;**
  - (2) Neutral color or colors for the proposed wireless telecommunications equipment and when required by the Board, the use of “stealth technology”;**
  - (3) A Visual Impact Statement ("VIS") with particular attention given to the visibility of the proposed wireless telecommunications equipment from key viewpoints such as but not limited to key intersections, identified areas of public interest: ie., schools, parks related features and ridges plus those additional areas of public interest as identified by the reviewing Board during the application review;**
  - (4) The reviewing Board may, where appropriate, require the applicant to conduct a simulation of the visibility of a proposed wireless telecommunications tower in accordance with a test protocol approved by the Board's professional consultants.**
  - (5) A map of existing wireless telecommunications technology within the corporate boundary of the Borough of Westwood or within one (1) mile therefrom which is owned, leased, or otherwise under the custody, control, or use of the applicant or another wireless telecommunications service provider at the time of application, and of sites within the Borough of Westwood or within one (1) mile therefrom where wireless telecommunications technology is proposed or projected to be installed, constructed, erected, moved, reconstructed, and/or modified by or for the benefit of the applicant within the next two (2) years;**

- (6) A certified load analysis report prepared by a qualified and licensed professional for the building, structure, existing wireless telecommunications tower, or proposed wireless telecommunications tower upon which a wireless telecommunications antenna is proposed to be located, indicating its ability to support possible future collocated wireless telecommunications antennas;**
- (7) The reviewing authority may waive any of these requirements, for good cause shown, where an application is made to locate proposed wireless telecommunications antenna upon an existing building, structure or wireless telecommunications tower;**

**G. Application Requirements for zoning permits for wireless telecommunications technology. In addition to submission of all applications required by the Land Use Ordinance, all applicants seeking the installation, construction, erection, movement, reconstruction, or modification of any wireless telecommunications technology shall submit the following:**

- (1) Needs Analysis. The Needs Analysis shall contain documentary evidence demonstrating the need for the proposed installation of new antennas. An applicant replacing antennas on a one for one basis shall be exempt from supplying a Needs Analysis provided that the replacement antenna are installed no higher than the height of the existing antenna. This evidence shall include, at a minimum:**
  - (a) The wireless telecommunications service provider's wireless telecommunications network layout and coverage area for a radius of at least one (1) mile from the proposed site, identifying all locations:**
    - (a) In operation as of the filing date of the application;**
    - (b) Under construction as of the filing date of the application;**
    - (c) Pending approval before any licensing authority as of the filing date of the application; or**
    - (d) Planned or projected for approval and construction within the next two (2) years following the filing date of the application. All results and, to the extent requested by the reviewing authority, supporting data derived from tests which must be conducted to determine before and after signal strength plots. These results and data:**
      - 1. Shall demonstrate the actual existing signal coverage in effect at the time of application, contrasted with the proposed signal coverage which would result from the proposed installation, construction, erection, movement, reconstruction, or modification of wireless telecommunications technology within the Borough of Westwood and**



lot or lease lines of the proposed site, based upon the maximum power output of the full complement of wireless telecommunications antennas which the wireless telecommunications tower or other supporting structure is capable of accommodating. The analysis shall demonstrate, to the satisfaction of the reviewing authority that the maximum RF exposure at the lot or lease lines of the proposed site would not exceed the applicable maximum RF exposure levels established by Federal law. The reviewing authority may appoint, at the applicant's sole expense, a qualified independent expert to review the analysis, its supporting data, and its underlying assumptions.

**H. Permit Standards.** The following criteria shall be considered by the reviewing authority and may be used as a basis to impose reasonable conditions on the applicant.

- (1) Aesthetics.** Wireless telecommunications technology shall be located and buffered to the maximum extent which is practical and technologically feasible to help ensure compatibility with surrounding land uses. In order to minimize any adverse aesthetic effect on neighboring residences to the extent possible, the authority may impose reasonable conditions on the approval of the application including the following:
  - (a)** The authority may require the applicant to show that it has made good faith efforts to minimize the height of proposed towers, to collocate on existing buildings, structures, or wireless telecommunications towers, or to locate proposed new wireless telecommunications towers near existing towers in an effort to consolidate visual disturbances;
  - (b)** The applicant must submit a copy of its policy regarding collocation with other potential applicants on any proposed wireless telecommunications tower;
  - (c)** The authority may require the applicant to use camouflage, architectural treatments, and/or otherwise minimize the visual impact of the proposed wireless telecommunications technology. Where appropriate to prevent degradation or impairment of public view or vistas, the authority may require off-site and/or off-tract landscape improvements to minimize sight lines from highly-trafficked locations or to mitigate the disruption of scenic vistas.
- (2) Radio-Frequency Effect.** The authority may impose conditions on the applicant that the proposed wireless telecommunications antenna be operated only at Federal Communication Commission (FCC) designated frequencies and power levels and/or relevant and applicable exposure limits. The authority may require that competent documentation be provided which establishes that maximum allowable frequencies, power levels, and exposure limits for radiation from the

site will not be exceeded, and that radio and television reception will not be interfered with.

**(3) Structural Safety.**

- (a) Upon written request from the Borough of Westwood at any time during the application process or after the installation, construction, erection, movement, reconstruction, or modification of any wireless telecommunications technology, the applicant shall provide a report from a licensed professional engineer certifying as to the condition of the wireless telecommunications technology with respect to applicable structural safety standards. Such requests from the Borough shall not occur more often than once every three (3) years or upon an application to replace or collocate additional antennas upon the tower. If the engineer's report recommends that repairs or maintenance are required, then a letter shall be submitted to the Borough Construction Code Official which shall contain a reasonable schedule for the required repairs or maintenance. Upon their completion of repairs or maintenance, a letter shall promptly be submitted to the Borough Construction Code Official to certify the continued integrity of the wireless telecommunications technology.
- (b) In the event the applicant fails to comply with these requirements regarding structural safety, the Borough reserves the right, in addition to all of its other rights and remedies available under Federal, State, and local law, to declare the applicant in default of its obligations under this subsection. Should that occur, the applicant will have ten (10) days to notify the Borough of Westwood Construction Code Official as to how it intends to cure its default, setting forth a reasonable schedule for same. In the event the applicant fails to so notify the Borough or fails to cure as agreed, the Borough may arrange for the removal and/or demolition of the applicant's wireless telecommunications technology; declare the wireless telecommunications technology to be abandoned and arrange for the public auction of the wireless telecommunications technology; and/or pursue such other remedies at law and in equity as may be available. Nothing in this paragraph shall be construed to limit the applicant's liability for criminal or civil prosecution.

**§ 195-146 Removal of abandoned antennas and towers.**

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the Borough of Westwood notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

**§ 195-147 Nonconforming uses.**

- A. 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 article.
- B. Rebuilding damaged or destroyed nonconforming towers or antennas. Notwithstanding § 195-146, 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 § 195-144B(4) and (5). 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 and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained, or if said permit expires, the tower or antenna shall be deemed abandoned as specified in § 195-146.

Section 9. If any section, subsection, paragraph, sentence or any other part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance.

Section 10. All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Section 11. The Borough Clerk is hereby directed to give notice at least ten (10) days prior to the hearing on the adoption of this ordinance to the Bergen County Planning Board, and to all others entitled thereto pursuant to the provisions of N.J.S.A. 40:55D-15. Upon adoption of this ordinance, after public hearing thereon, the Borough clerk is further directed to publish notice of the passage thereof and to file copy of this ordinance as finally adopted with the Bergen County Planning Board as required by N.J.S.A. 40:55D-16 and with the Borough Tax Assessor.

Section 12. This ordinance shall take effect after final passage and publication as prescribed by law.

Adopted: \_\_\_\_\_

Approved:

Attest:

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John Birkner, Jr., Mayor

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Karen Hughes, Borough Clerk