

TOWNSHIP OF WALL
ORDINANCE NO. 11-2017

**AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF WALL
AMENDING THE TOWNSHIP'S SCHEDULE OF PERMITTED AND CONDITIONAL
USES, SECTION 140-ATTACHMENT 3:5 REGARDING THE HIGHWAY BUSINESS (HB-
80) ZONE DISTRICT AND AMENDING SECTION 140-144 REGARDING WIRELESS
COMMUNICATION FACILITIES**

WHEREAS, the Township of Wall regulates land use and development within the Township of Wall, by and through Chapter 140 of the Code of the Township of Wall; and

WHEREAS, the Township of Wall Land Use and Development Regulations utilizes the 1997 North American Industry Classification System (NAICS) to categorize permitted and conditional uses within the Township.

WHEREAS, Section 140 Attachment 3:5 (Schedule of Permitted and Conditional Uses for Nonresidential Zone Districts) permits Cellular Telecommunications (NAICS 51322) as a Conditional Use in the Office Research (OR-10), General Industrial (GI-2), General Industrial (GI-5), and General Industrial (GI -10) Zones only.

WHEREAS, Section 140-144(D)(1) permits antennas and towers as conditional uses in the GI Zones and OLI-10 Zone.

WHEREAS, the OLI-10 Zone has been renamed to the Office Research (OR-10) Zone and the OLI-10 Zone no longer exists.

WHEREAS, Section 140-144 of the Wall Township Land Use and Development Regulations has established guidelines for the siting of wireless communications towers and antennas within these zones.

WHEREAS, the Township Committee of the Township of Wall wishes to amend the Land Use and Development Regulations to clarify that wireless antennas and towers are permitted as a conditional use in the OR-10 Zone as the OLI Zone no longer exists.

WHEREAS, the Township Committee of the Township of Wall also wishes to amend the Land Use and Development Regulations to clarify that bulk regulations regarding wireless communications facilities apply to the entirety of the lot and not individual parcels within the lot formed by way of technical subdivision.

WHEREAS, the Township Committee of the Township of Wall also wishes to amend the Land Use and Development Regulations to permit NAICS 513322 and antennas and towers as defined in section 140-144 as a conditional use in the Highway Business (HB-80) Zone District with certain conditions.

WHEREAS, the Township Committee of the Township of Wall also wishes to amend the Land Use and Development Regulations to clarify that when siting equipment cabinets and structures associated with cellular communications facilities that more than one structure shall be permitted as determined by the Planning Board provided the required conditional use standards are addressed.

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

Section 1. Chapter 140 Attachment 3:5 shall be amended and supplemented to add the letter C in the line item row for NAICS Code 513322 under the HB-80 Column.

Section 2. Chapter 140-144(D)(1) shall be amended to read as follows (strikethrough are words to be eliminated and bold are words to be added):

Conditional use. Antennas and towers shall be permitted as conditional uses in the GI Zones ~~and OLI-10-OR-10, Zone, and HB-80 Zone~~. They shall not be permitted in any other zone except on properties owned by the Township, excluding open space properties. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

Section 3. Chapter 140-144(D)(2) shall be amended to read as follows (strikethrough are words to be eliminated and bold are words to be added):

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, **separation 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.~~ **and not individual parcels formed by way of technical subdivision in accordance with Section 140-81, "Technical Subdivisions."**

Section 4. Chapter 140-144(E)(4) shall be amended to read as follows (strikethrough are words to be eliminated and bold are words to be added):

A conditional use permit shall be granted for a wireless communications tower or antenna **as defined in this chapter in the GI Zones and OR-10 Zone only**, provided that the following standards and specifications are satisfied:

Section 5. A new section in Chapter 140-144(E) shall be added as follows:

(5) A conditional use permit shall be granted for a wireless communications tower or antenna as defined in this chapter in the HB-80, only provided that the following standards and specifications are satisfied:

(a)

The site shall contain a data center as a principal use on the site designated as 1997 NAICS subsector 514. Said data center shall be within an enclosed building with a minimum Gross Floor Area of 80,000 square feet and shall otherwise comply with the bulk requirements of the HB-80 Zone, except that an enhanced lot size of ten (10) acres shall be provided.

(b)

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 approving 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 board as to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

[1]

No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.

[2]

Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.

[3]

Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.

[4]

The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

[5]

The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

[6]

The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

[7]

The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

(b)

Setbacks and bulk requirements. The following bulk and setback requirements shall apply to all towers for which approval is sought:

[1]

The lot on which the tower is proposed to be located shall meet all of the minimum lot size and other bulk requirements of the zone in which it is located.

[2]

Towers must be set back a distance at least two times the height of the tower from any adjoining lot line or two times the setback requirements of the zoning district, whichever is greater.

[3]

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

(c)

Separation. The following separation requirements shall apply to all towers and antennas for which approval is required; provided, however, that the board may reduce the standard separation requirements if the goals of this article would be better served thereby.

[1]

Separation from off-site uses/designated areas.

[a]

Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.

[b]

Towers shall be separated from off-site uses or areas in accordance with the minimum standards established in Table 1.

Table 1	
Off-Site Use/Designated Area	Separation Distance ²
Single family or duplex residential units in residential zones ¹	500 feet or 300% of 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 has not expired	500 feet or 300% of height of tower, whichever is greater
Vacant unplatted residentially zoned lands ³	500 feet or 200% of height of tower, whichever is greater
Existing multifamily residential units greater than duplex units	500 feet or 200% of height of tower, whichever is greater
Right-of-way of State Highway No. 34	
Nonresidentially zoned lands or nonresidential uses (or residential uses in non-residential zones) ⁵	300 feet or 200% of height of tower, whichever is greater
Notes	
¹ Includes modular homes and mobile homes used for living quarters.	
² Separation measured from base of tower to closest building setback line.	
³ 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 a duplex.	

[2]

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

Table 2				
Existing Towers	Lattice (feet)	Guyed (feet)	Monopole 75 Feet in Height or Greater (feet)	Monopole Less Than 75 Feet in Height (feet)
Lattice	5,000	5,000	1,000	750
Guyed	5,000	5,000	1,000	750
Monopole less than 75 feet	750	750	750	750

(d)

Security fencing. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anticlimbing device.

(e)

Landscaping. The following requirements shall govern the landscaping surrounding towers for which a conditional use approval is required.

[1]

Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from any adjoining property or roadway used for residences. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.

[2]

In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.

[3]

Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers located on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

(f)

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.

(g)

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.

Section 6. Chapter 140-144(F) shall be amended to read as follows (strikethrough are words to be eliminated and bold are words to be added):

Buildings or other equipment storage.

(1)

Antennas mounted on structures or rooftops. The equipment cabinet(s) or structure(s) used in association with antennas shall comply with the following:

(a)

The cabinet(s) or structure(s) shall not contain more than 100 square feet of gross floor area or be more than 10 feet in height. In addition, for buildings and structures which are less than 65 feet in height, the related unmanned equipment structure(s), if over 100 square feet of gross floor area or 10 feet in height, shall be located on the ground and shall not be located on the roof of the structure.

(b)

If the equipment structure(s) is located on the roof of a building, the area of the equipment structure(s) and other equipment and structures shall not occupy more than 10% of the roof area.

(c)

Equipment storage buildings or cabinets shall comply with all applicable zoning and building codes.

(2)

Antennas mounted on utility poles or light poles. The equipment cabinet(s) or structure(s) used in association with antennas shall be located in accordance with the following:

(a)

In residential zones, the equipment cabinet or structure may be located:

[1]

Provided the cabinet or structure is no greater than 10 feet in height or 100 square feet of gross floor area and the cabinet/structure is located a minimum of 200 feet from all lot lines. 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 48 inches.

(b)

In nonresidential zones, the equipment cabinet(s) or structure(s) shall be no greater than 10 feet in height or 100 square feet in gross floor area. The structure(s) or cabinet(s) shall be screened by an evergreen hedge with an ultimate height of eight feet and a planted height of at least 48 inches. All structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure(s) or cabinet(s) 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 48 inches.

(3)

Antennas located on towers. The related unmanned equipment structure(s) shall not contain more than 100 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.

(4)

Modification of building site requirements. The requirements of Subsection F(1) through (3) may be modified by the Planning Board in the case of uses permitted by conditional use in order to encourage collocation.

Section 7. All Ordinances, or parts thereof, inconsistent with the provisions of this Ordinance, be and the same are hereby repealed to the extent of such inconsistency.

Section 8. Should any section, paragraph, clause or any other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect or impair the remainder of this Ordinance.

Section 9. Pursuant to the Municipal Land Use Law, the Clerk is directed to give notice at least ten (10) days prior to the hearing on the adoption of this Ordinance to the County Planning Board pursuant to the provisions of N.J.S.A. 40:55D-15. Upon adoption of this Ordinance after public hearing thereon, the Municipal Clerk is further directed to publish notice of the passage thereof and to file a copy of this Ordinance with the County Planning Board as required by N.J.S.A. 40:55D-16.

Section 10. This Ordinance shall take effect upon final passage and publication as provided by law; however, subsequent to first reading, this Ordinance must be referred to the municipal Planning Board for review, which shall be based on whether the proposal is substantially consistent with the Master Plan. The Planning Board has a period of thirty-five (35) days after referral to report on the proposed Ordinance.

Introduced on: **September 27, 2017**

Adopted:

Attest: _____
Roberta M. Lang, RMC
Township Clerk

Approve: _____
Dominick DiRocco
Mayor