

**ORDINANCE NO.15-12**  
**INTRODUCTION DATE: 05-20-15**  
**ADOPTION DATE: 06-17-15**

**ORDINANCE AMENDING CHAPTER XXXV (LAND USE), ARTICLE VI (CONDITIONAL USES), SECTION 6-3 (WIRELESS COMMUNICATION FACILITIES), OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE, COUNTY OF MONMOUTH, STATE OF NEW JERSEY.**

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BE IT ORDAINED by the Township Committee of the Township of Millstone, County of Monmouth, State of New Jersey, as follows (additions are underlined, and deletions are in [~~brackets~~]):

**I**

Chapter XXXV, Land Use, Article 6, Conditional Uses, Section 6-3, Wireless Communication Facilities, is hereby amended to read as follows:

**6-3 WIRELESS COMMUNICATION FACILITIES.\***

**6-3.1 Definitions.**

As used in this section, the following terms shall have the meanings indicated:

NOTE TO CODIFIER: The following 2 definitions are added to the existing list of definitions.

Base Station: The equipment and non-tower supporting structure at a fixed location that enables Communication-licensed or authorized wireless communications between user equipment and a connections network.

Collocation: The mounting or installation of transmission equipment on a Wireless Communication Tower or Base Station for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

**6-3.2 - 6-3.5** – No change.

**6-3.6 Locations Where Wireless Communication Antennas May Be Located.**

Wireless communication antennas may be located only at the following two (2) prioritized locations:

a. *First Priority Locations.* The first priority locations for wireless communication antennas shall be on the existing towers, poles, ~~and silos,~~ and base stations, or within the existing church steeples in the Township of Millstone identified in Addendum I to this Section;

antennas so located are permitted uses in the zoning districts in which the identified existing structures are located, notwithstanding any other provision of this ordinance to the contrary, and

b. No change.

### **6-3.7 Modifications Constituting a Substantial Change**

A proposed modification shall constitute a substantial change to an existing structure if it meets any of the following criteria:

a. for towers outside of public rights-of-way, it increases the height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for those towers in the rights-of-way and for all base stations, it increases the height of the tower or base station by more than 10% or 10 feet, whichever is greater;

b. for towers outside of public rights-of-way, it protrudes from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for those towers in the rights-of-way and for all base stations, it protrudes from the edge of the structure more than six feet;

c. it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;

d. it entails any excavation or deployment outside the current site of the structure;

e. it would defeat the existing concealment elements of the structure; or

f. it does not comply with conditions associated with the prior approval of construction or modification of the structure unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding “substantial change” thresholds identified above.

Any such change shall be determined by measuring the change from the dimensions of the structure as originally approved or as of the most recent modification that received local zoning or similar regulatory approval prior to the passage of the Middle Class Tax Relief and Job Creation Act of 2012 (February 22, 2012), whichever is greater.

**6-3.8 Applications for Modifications that Do Not Substantially Change First Priority Locations.**

a. Required Documentation for Applications. An applicant requesting approval for a collocation, modification, removal, or replacement of equipment at an existing wireless communications tower, base station, or other facility on which wireless communications equipment is located, that does not substantially change the dimensions of the existing structure, shall submit the following documentation to the Township Engineer and the Township Land Use Planner for review:

1. A completed Application Checklist for Wireless Communication Facilities Modification to a First Priority Location.

2. A location plan drawn to scale and clearly indicating the location, type and height of the proposed equipment, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Master Plan classification of the site and all properties within two hundred (200) feet of the property which is the subject of the application, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, and parking.

3. A legal description of the parent tract and leased parcel (if applicable).

4. The finished color and, if applicable, the method of camouflage and illumination of the existing structure and equipment;

5. The finished color and, if applicable, the method of camouflage and illumination of the proposed structure and equipment

6. A description of the proposed equipment's compliance with the requirements set forth in subsections 6-3.11 through 6-3.14, below, and with all applicable federal, state or local laws.

7. 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.

8. 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 tower.

9. A description of the feasible location(s) of future towers or antennas within the Township based upon existing physical, engineering, technological or geographical limitations in the event the proposed collocation is permitted.

10. Proof of compliance with Section 14-5 of the Land Use and Development Regulations of the Township of Millstone if the application concerns property located within a historic district, or property that is considered a historic landmark, as defined in Section 14-4, or as defined by applicable State or Federal law.

11. A description of the type and quantity of equipment to be installed.

12. A description of the number and size of any equipment cabinets to be installed on the tower or base station.

13. A description of the number and size of any equipment cabinets to be installed on the ground.

14. A description of any excavation required.

15. A description of the change in tower height as a result of the proposed collocation, removal, or replacement.

16. A description of the change in the height of any other structure as a result of the proposed collocation, removal, or replacement.

17. A description of the change in width of the tower or structure at the height of the proposed collocation, removal, or replacement.

18. A description of the proximity of the equipment to any other equipment on the same structure and of the visibility of the proposed equipment from the surrounding property.

19. A description of the noise level emitted by any proposed equipment.

b. *Review of Applications.* Applications submitted under this subsection 6-3.8 shall be reviewed by the Township Engineer and the Township Land Use Planner pursuant to the following:

1. *Timeframe for Review.* The Township Engineer and the Township Land Use Planner shall determine whether an application for collocation, removal, or replacement of equipment at an existing wireless communications tower or base station constitutes a substantial change pursuant to subsection 6-3.7 within 60 days of receipt of the application. Applications that do not substantially change the tower or base station shall be approved within this time period. This 60 day period may be extended by mutual agreement of the applicant and either the Township Engineer or the Township Land Use Planner.

2. *Incomplete Applications.* The Township Engineer or the Township Land Use Planner may toll the 60-day timeframe set forth in subsection 6-3.8(b)(1) by notifying the

applicant, within 30 days of receipt of submission of an application, that the application is incomplete. Such notification shall set forth all outstanding information, as well as the applicable code provision, ordinance, application instruction, or publicly-stated procedure requiring the information to be submitted. The 60-day timeframe shall begin again upon receipt of the supplemental submission.

3. Subsequent Incomplete Applications. The Township Engineer or the Township Land Use Planner may thereafter toll the 60-day timeframe by notifying the applicant, within 10 days of receipt of the supplemental submission, that the applicant did not provide the information identified in the original notice delineating missing information. Second or subsequent notices of incompleteness may not specify missing documents or information not previously delineated in the original notice of incompleteness.

4. Complete Applications. The Township Engineer and the Township Land Use Planner shall, within the 60-day timeframe, approve all complete applications for collocation, removal, or replacement of equipment at an existing wireless communications tower or base station that do not constitute a substantial change pursuant to subsection 6-3.7, and that do not otherwise violate applicable health and safety requirements. If the Township Engineer and the Township Land Use Planner determine that an application constitutes a substantial change to an existing wireless communications tower or base station, they shall notify the applicant of same, and proceed to consider the application according to the provisions of this Article; the 60-day timeframe does not apply to substantial changes.

5. Applications on Improper Towers. Notwithstanding subsection 6-3.8(b)(4), above, the Township Engineer and the Township Land Use Planner are not obligated to approve an application for collocation, removal, or replacement of equipment on a tower or base station that was constructed or deployed without proper review, was not required to undergo siting review, or does not support transmission equipment that received another form of affirmative State or local regulatory approval.

6. Failure to Act. If the Township Engineer and the Township Land Use Planner do not approve or deny an application for collocation, removal, or replacement of equipment at an existing wireless communications tower or base station within 60 days of receipt of the application or any applicable tolling periods thereafter, the applicant may notify the Township Engineer or the Township Land Use Planner in writing that the review period has expired. Upon the Township Engineer or the Township Land Use Planner's receipt of this notice from the applicant, the application shall be deemed granted.

**6-3.79 Requirements for Substantial Changes to First Priority Locations.**

a. No change.

1. – 2. No change.
3. Review and approval of collocation, modification, removal, or replacement applications under this Section shall be completed within 90 days of the date of the receipt of the application. This review period may be extended by mutual agreement of the applicant and either the Township Engineer or the Township Land Use Planner.
- b. No change.
- c. ~~Additional~~ *Design Requirements for Existing Transmission Towers.*
  1. – 2. No change.
- d. No change.

**6-3.810 Requirements for Second Priority Locations.**

- a. No change.
- b. The following information shall be submitted for site plan approval, and the referenced subsections ~~6-3.911~~, ~~6-3.4012~~, ~~6-3.4113~~ and ~~6-3.4214~~ contain the specific conditions, standards and limitations for wireless communication antennas on wireless communication towers in the Township of Millstone:
  1. No change.
  2. In order to be declared complete, the initially submitted application shall include an "Overall Comprehensive Plan" in accordance with subsection ~~6-3.911~~ of this section hereinbelow;
  3. In order to be declared complete, the initially submitted site plan shall indicate conformance with all of the "Area and Setback Conditions" set forth in subsection ~~6-3.4012~~ of this section hereinbelow;
  4. In order to be declared complete, the initially submitted site plan shall indicate conformance with each of the "Design Conditions" set forth in subsection ~~6-3.4113~~ of this section hereinbelow;
  5. In order to be declared complete, the initially submitted application shall include the "Additional Conditions" indicated in subsection ~~6-3.4214~~ of this section hereinbelow; and
  6. No change.

**6-3.911 Overall Comprehensive Plan.**

- a. – b. No change.
- c. The overall comprehensive plan shall indicate the following, and this information shall be provided at the time of the initial submission of the application:
  1. The mapped location and written description of all existing and approved supporting towers for all providers of wireless communication services within one (1) mile of the subject site, both within ~~the~~ and outside of Millstone Township;
  2. – 6. No change.

**6-3.1012 Area and Setback Conditions.**

a. – d. No change.

**6-3.1113 Design Conditions.**

a. – h. No change.

**6-3.1214 Additional Conditions.**

a. – b. No change.

**6-3.1315 Location Preferences for New Towers.**

a. – c. No change.

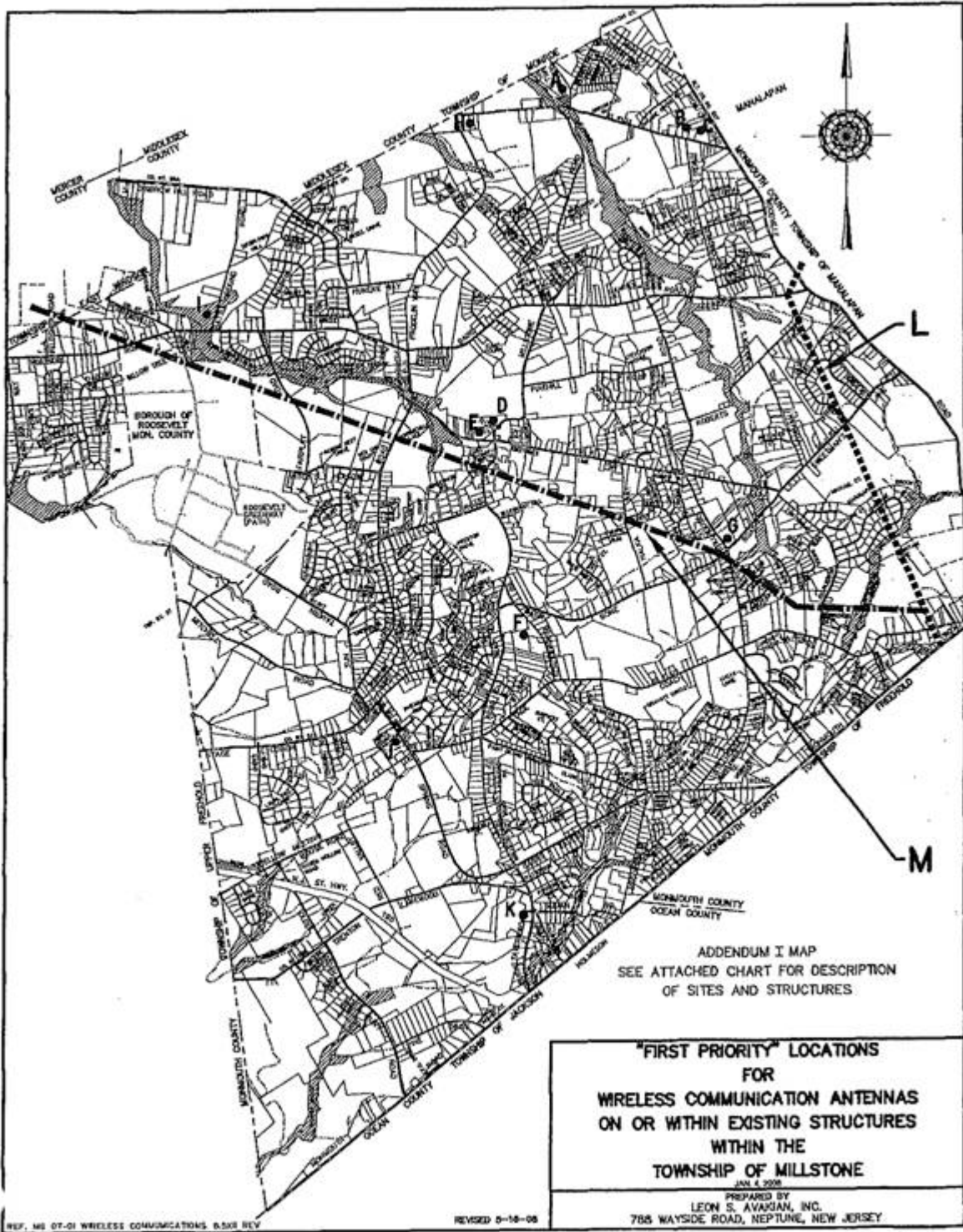
**6-3.1416 Other Requirements.**

a. – b. No change.

**6-3.1517 Technical Review. – No change.**

**6-3.1618 Application for "Use" Variances to the Zoning Board. – No change.**

ADDENDUM I – SUBSECTION 6-3.911





## II

All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

## III

If any section, subparagraph, sentence, clause or phrase of this Ordinance shall be held to be invalid, such decision shall not invalidate the remaining portion of this Ordinance.

## IV

This Ordinance shall take effect upon adoption and publication according to law and filing with the Monmouth County Planning Board.

### **EXPLANATORY STATEMENT:**

This amendment brings the Township's Telecommunications Ordinance into compliance with the recent FCC rule changes.