

**BOROUGH OF MANASQUAN
ORDINANCE NO. 2184-15**

**ORDINANCE SUPPLEMENTING CHAPTER 35 (ZONING) AND
CREATING SECTION 35-38 ENTITLED
TELECOMMUNICATIONS TOWERS AND ANTENNAS AND
SECTION 35-38.1 ENTITLED PURPOSE AND SECTION 35-38.2
ENTITLED NONAPPLICABILITY TO AMATEUR RADIO
STATIONS AND TO RECEIVE-ONLY ANTENNAS AND
SECTION 35-38.3 ENTITLED TELECOMMUNICATIONS
TOWERS AND ANTENNAS ON BOROUGH PROPERTY AND
SECTION 35-38.4 ENTITLED TELECOMMUNICATIONS
TOWERS AND ANTENNAS ON NON-BOROUGH PROPERTY IN
THE BOROUGH OF MANASQUAN, COUNTY OF MONMOUTH,
STATE OF NEW JERSEY**

BE IT ORDAINED, by the Borough Council of the Borough of Manasquan, County of Monmouth, State of New Jersey, as follows:

SECTION 1: Chapter 35 entitled Zoning of the Revised General Ordinances of the Borough of Manasquan is amended by creating Sections: 35-38 entitled Telecommunications Towers and Antennas, 35-38.1 entitled Purpose, 35-38.2 entitled Nonapplicability to Amateur Radio Stations and to Receive-Only Antennas, 35-38.3 entitled Telecommunications Towers and Antennas on Borough Property, and 35-38.4 entitled Telecommunications Towers and Antennas on Non-Borough Property and shall read as follows:

35-38 Telecommunications Towers and Antennas

35-38.1 Purpose:

- a. The purpose of these regulations for the siting of telecommunications towers and antennas is to:
 - i. Protect residential areas and land uses from potential adverse impacts of towers and antennas;
 - ii. Encourage the location of towers in appropriate locations;
 - iii. Minimize the total number of towers throughout the Borough;
 - iv. Strongly encourage the joint use of approved tower facilities as a primary option rather than construction of new or additional single-use towers;
 - v. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impacts on the community is minimal;
 - vi. 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;
 - vii. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;

- viii. Consider the public health and safety of communication towers; and
- ix. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the Borough of Manasquan shall give due consideration to the Borough Master Plan, Zoning Map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

35-38.2 Nonapplicability to Amateur Radio Stations and to Receive-Only Antennas:

The provisions of this article shall not govern any antenna that is owned and operated by a federally licensed amateur radio station operator or is used exclusively as a receive-only antenna in accordance with Federal Communications Commission (FCC) regulations.

35-38.3 Telecommunications Towers and Antennas on Borough Property:

Telecommunications towers and antennas that are located on property owned, leased or otherwise controlled by the Borough of Manasquan and that are approved by the Mayor and Borough Council shall be deemed to be a permitted use as a municipal facility in any zone district and will not require site plan approval.

35-38.4 Telecommunications Towers and Antennas on Non-Borough Property:

- a. Telecommunications towers may be allowed as a conditional use within the B-3 General Business Zone East of Parker Avenue in Blocks 52, 53, 54, 55 and 56 and in a northerly direction from Stockton Lake Boulevard to Sea Girt Avenue (see attached tax map) on property that is not owned, leased, or otherwise controlled by the Borough of Manasquan, subject to the minimum standards of the zone district and the standards, regulations and requirements set forth in this article. Site plan approval shall be required prior to the installation of telecommunications towers on non-Borough property.
- b. Telecommunications towers shall only be permitted on non-Borough property where the municipal approving authority has determined the following:
 - i. There is substantial evidence that there is a significant telecommunications gap in the Borough that the proposed facility will correct.
 - ii. There is no Borough-owned property available and no telecommunications towers on Borough-owned property available where a proposed facility could locate or collocate that would correct the telecommunications gap.
 - iii. There are no non-Borough wireless telecommunications towers or transmission facilities available on which the proposed facility could locate or collocate that would correct the telecommunications gap.
 - iv. There is no residential use, school use, or health-care use on the lot on which the proposed facility is to be located and that the existing use and structure does not preclude the installation of a tower and antenna on the same lot.
 - v. The application for the proposed facility is the joint application of two or more telecommunications carriers, licensed to provide service within

the area, and that the application provides for the collocation of two or more carriers at the site.

- vi. The dimensions of the entire lot on which the facility is located are used for the purpose of determining whether the installation of a tower complies with zone district development regulations, including but not limited to setback, lot coverage, and other such requirements. The dimensions of the entire lot shall control, even though the tower may be located on a leased parcel within such lot.
 - vii. A plan is submitted for the periodic testing of the facility to ensure ongoing compliance with applicable federal and/or state standards, the plan is subject to the review and approval of the Planning Board.
- c. Telecommunications towers shall only be permitted on non-Borough property where the municipal approving authority has determined the following:
- viii. There is no Borough-owned property available and no telecommunications antennas on Borough-owned property available where a proposed facility could locate or collocate that would correct the telecommunications gap.
 - ix. There are no non-Borough wireless telecommunications antennas available on which the proposed facility could locate or collocate that would correct the telecommunications gap.
 - x. There is no residential use, school use, or health-care use on the lot on which the proposed facility is to be located and that the existing use and structure does not preclude the installation of a tower and antenna on the same lot.
 - xi. The dimensions of the entire lot on which the facility is located are used for the purpose of determining whether the installation of a tower complies with zone district development regulations, including but not limited to setback, lot coverage, and other such requirements. The dimensions of the entire lot shall control, even though the tower may be located on a leased parcel within such lot.
 - xii. A plan is submitted for the periodic testing of the facility to ensure ongoing compliance with applicable federal and/or state standards, the plan is subject to the review and approval of the Planning Board.
- d. Each applicant for a tower and antenna shall provide to the Planning Board, as part of its application, an inventory of its existing towers, antennas, or sites approved for towers and antennas, that are either within the jurisdiction of the Borough or within two miles of the border thereof, including specific information about the location, height, and design of each tower. The Borough may share such information with other applicants applying for approvals under this article or other organizations seeking to locate towers or antennas within the jurisdiction of the Borough; provided, however, that the Borough is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- e. Telecommunications towers and antennas shall meet the following aesthetic requirements:
- i. Towers shall either maintain a finish or be painted a color approved by the Planning Board, so as to reduce visual obtrusiveness, subject to any applicable standards of the FAA.

- ii. 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.
- iii. 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.
- iv. 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.
- v. 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 chapter 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.
- vi. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Borough 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.
- vii. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Borough irrespective of municipal and county jurisdictional boundaries.
- viii. 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 communication system in the Borough have been obtained and shall file a copy of all required franchises with the Borough.
- ix. No signs shall be allowed on an antenna or tower.
- x. Buildings and support equipment associated with antennas or towers shall comply with the requirements as set forth herein.
- xi. The tower, including antennas, shall be a maximum height of 150 feet above the ground level at the base of the tower and usage criteria. The applicant shall submit structural design calculations certified by a licensed New Jersey professional engineer that the tower can structurally accommodate the number of shared users proposed by the applicant.

- f. Applicants for approval for a telecommunications tower shall submit, in addition to any information required for applications for site plan review, the following:
- i. A location plan drawn to scale and clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Master Plan classification of the site and all properties within the applicable separation distances, set forth herein, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, and parking.
 - ii. A survey and legal description of the parent tract and leased parcel (if applicable).
 - iii. The setback distance between the proposed tower and the nearest residential unit, and residentially zoned properties.
 - iv. The separation distance from other towers described in the inventory of existing sites submitted 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.
 - v. A landscape plan showing specific landscape materials.
 - vi. Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
 - vii. A description of compliance with all of the sections herein and all applicable federal, state or local laws.
 - viii. A statement by the applicant as to the number of users construction of the tower will accommodate for collocation.
 - ix. Identification of the entities providing the back haul network for the tower(s) described in the application and other telecommunication service sites owned or operated by the applicant in the Borough.
 - x. 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.
 - xi. A description of the feasible location(s) of future towers or antennas within the Borough based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- g. Pursuant to this chapter, the Planning Board shall, in addition to any standards for consideration of site plans, consider the following factors in the conditional use application:
- i. Availability of suitable existing towers other structures or alternative technologies not requiring the use of towers or structures, as discussed herein.
 - ii. Height of the proposed tower.
 - iii. Proximity of the tower to residential structures and residential district boundaries.

- iv. Nature of uses on adjacent and nearby properties.
 - v. Surrounding topography.
 - vi. Surrounding tree coverage and foliage.
 - vii. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
 - viii. Proposed ingress and egress to the site.
- h. 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 municipal agency 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:
- i. No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
 - ii. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
 - iii. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
 - iv. 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.
 - v. 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 not exceeding new tower development are presumed to be reasonable.
 - vi. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 - vii. 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 wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- i. The following minimum setback requirements shall apply to all telecommunications towers for which site plan approval is required:
- i. Towers must be set back a distance equal to at least 100% of the height of the tower from any adjoining lot line, but in no event shall the tower be located in the minimum required yard area or buffer area of the zone district.
 - ii. Guys and accessory buildings and structures must satisfy the minimum zoning district setback and buffer requirements.
 - iii. 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 Subsection h(iii)(b) below, except as otherwise provided.

b. Towers shall maintain a separation distance of 100 feet or 100% of the tower height; whichever is greater, from residential dwelling units.

iv. Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers or other proposed 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 below in the Table of Required Separation Distances Between Towers:

i. **Table of Required Separation Distances Between Towers**

	Lattice	Guyed	Monopole 75 Feet in Height or Greater	Monopole Less Than 75 Feet in Height
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

j. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anticlimbing device; provided, however, that the municipal agency may waive such requirements, as it deems appropriate.

k. The following requirements shall govern the landscaping surrounding towers for which site plan approval is required; provided, however, that the municipal agency may waive such requirements if the goals of this chapter would be better served thereby:

i. 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.

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

iii. Existing mature tree growth and natural landforms 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.

- k. In approving the tower, the Planning Board may impose conditions, including the use of an alternative tower structure, to the extent the municipal agency concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties or the neighborhood in which it is located.
- l. Buildings or other equipment storage structures shall comply with the following:
 - i. Antennas mounted on buildings or existing elevated structures shall not extend more than 30 feet above the highest point of the building's roof or above the highest point of the structure. The equipment cabinet or structure used in association with antennas shall comply with the following.
 - ii. The cabinet or structure shall not contain more than 200 square feet of gross floor area or be more than 10 feet in height. In addition, for buildings and structures that are less than 65 feet in height, the related unmanned equipment structure, if over 200 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.
 - iii. 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.
 - iv. Equipment storage buildings or cabinets shall comply with all applicable building codes.
- m. Antennas shall not be located on tower utility poles or light poles within a Borough street or right-of-way unless such facilities are approved by the Borough Council. Antennas proposed on towers, utility poles, or light poles within a street or right-of-way not owned by the Borough shall require approval as a conditional use. The related unmanned equipment structure shall not contain more than 200 square feet of gross floor area or be more than 10 feet in height, requirements of the zoning district in which located, and shall be screened from view of all residential properties.
- n. Any tower or antenna 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 Manasquan 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.


NOTICE

PUBLIC NOTICE IS HEREBY GIVEN that Ordinance No. 2184-15 was introduced at a meeting of the Mayor and Borough Council of Manasquan on the 6th day of July 2015, and was then read for the first time. The said ordinance will be further considered for final passage by the Mayor and Council at Borough Hall, 201 East Main Street, Manasquan, NJ 08736 at 8:00 p.m. on the 20th day of July 2015. At such time and place, or at any such time or place to which said meeting may be adjourned, all persons interested will be given an opportunity to be heard concerning said ordinance. A copy of this ordinance can be obtained without cost by any member of the general public at the Office of the Municipal Clerk in Borough Hall between the hours of 9:00 a.m. and 4:00 p.m. on Monday through Friday, except on legal holidays.


BARBARA ILARIA, RMC
Municipal Clerk

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Passed on First Reading and Introduction: July 6, 2015
Approved on Second Reading and Final Reading: July 20, 2015


GEORGE R. DEMPSEY JR.
Mayor