

Ordinance No. 02-183

AN ORDINANCE GOVERNING WIRELESS
COMMUNICATION FACILITIES AND
AMENDING THE DEVELOPMENT
ORDINANCE OF THE BOROUGH
OF MILLSTONE, SOMERSET COUNTY,
NEW JERSEY

BE IT ORDAINED by the Mayor and Council of the Borough of Millstone:

1. Section D-103 of the Development Ordinance of the Borough of Millstone, Definitions, is hereby amended by adding the following NEW definition thereto:

WIRELESS COMMUNICATION FACILITIES Facilities for the provision of wireless communication services as defined in the Federal Telecommunications Act of 1996, including cellular, personal communication services, specialized mobile radio, enhanced specialized mobil radio, and paging commercial wireless telecommunications services licensed by the FCC, but not including amateur radio facilities owned and operated by a federally-licensed amateur radio station operator or used exclusively for receiving-only antennae, non-cellular telephone services, and parabolic satellite antennae. Wireless communication facilities include, but are not limited to, antennae, antennae support structures, monopole telecommunications towers, and accessory facilities such as transmission equipment and buildings and security fencing therefor.

2. Section 108C of such Ordinance, Residential 2 District R-2; Conditional Uses, is hereby amended to read as follows:

Permitted conditional uses shall be those permitted in the R-1 District except that wireless communication facilities shall also be permitted.

3. Section D-110 of such Ordinance, Rural Agricultural District, is amended by adding the following NEW Subsection C thereto and by relettering the sections coming thereafter accordingly:

C. CONDITIONAL USES

(1) Wireless Communication Facilities

4. Section D-115.B of such Ordinance, Conditional Uses, is amended by adding a NEW subsection (3) as follows

(3) Wireless Communication Facilities

Wireless communication facilities as defined in Section D-103 are permitted as conditional uses in specified zone districts provided that the following requirements are met:

A. **Location, visibility, and height of antennae.** The antennae and support structure may be located only:

1. within the steeple of the church situated on Block 8, Lot 4 in the R-2 zone district and shall not be externally visible; or

2. on an existing electrical transmission tower located within the Public Service Electric and Gas easement located in the R-A zone district or on a monopole within such transmission towers, provided that neither the antennae nor the monopole may be more than 10 feet higher than the top of the transmission tower.

B. **Location and design of equipment compound servicing antennae within church steeple.** Equipment servicing antennae within a church steeple shall either be located within the basement of the existing church; in an addition to the church, the addition being of the same style, material, and colors of and architecturally compatible with the church; or in a separate equipment compound on the same lot. In the case of a compound:

1. The architectural design of the supporting equipment building shall reflect the style of and be architecturally compatible with the church and shall use the same materials and colors. The building shall not exceed 1 story and 12 feet in height and 200 square feet.

2. The compound shall be no greater in size than the minimum necessary to support the equipment building, but in no event greater than 1,000 square feet.

3. All utilities servicing the equipment building and connecting the equipment building and antennae shall be underground.

4. The equipment compound fencing shall be as unobtrusive as possible.

5. Landscaping shall be provided, on the outside of any compound fence, so that, by use of berming and shrubs, trees, and other landscaping, the compound is fully screened from all adjoining properties and public rights-of-way. Existing vegetation shall be preserved to the maximum extent practicable.

C. Location and design of equipment compound servicing antennae on electrical transmission tower or on monopole within an electrical transmission tower.

A compound housing equipment servicing wireless communication antennae on electrical transmission towers or on monopoles within electrical transmission towers shall comply with the following:

1. The compound shall be as close to the base of the tower as possible, and its area shall not exceed 1,000 square feet.

2. The supporting equipment building shall incorporate a peaked roof and high quality building material; shall have a residential or barn-like character; shall not exceed 1 story and 12 feet in height; and shall not exceed 200 square feet in gross floor area.

3. The visual impact of the equipment compound shall be mitigated for nearby viewers through landscaping or other screening materials. Landscaping shall be installed, on the outside of any compound fence, so that, by use of berming and shrubs, trees, and other landscaping, the compound is fully screened from all adjoining properties and public rights-of-way. Existing vegetation shall be preserved to the maximum extent practicable.

D. Standards applicable to equipment compounds servicing both antennae in church steeple and on electrical transmission towers or on monopoles within them.

1. All equipment compounds and buildings shall be subject to the minimum setback requirements in the zone district.

2. Access shall be from established site access points if possible.

3. No lighting shall be provided for equipment compounds or buildings except for security lighting at the entrance. In such case, the fixtures shall be attached to the facility, shall be focused downward, and shall be on a motion sensor so that the light is turned off when not needed for security purposes.

4. No more off-street parking may be provided than is absolutely necessary to service the facility.

E. Standards applicable to monopoles within electrical transmission towers and antennae on such towers or on monopoles within them.

1. The antennae shall not be lighted except as required by the Federal Aviation Administration, and in such case the least intrusive means of lighting shall be used.

2. A monopole installed within an electrical transmission tower shall have the same finish as the electrical transmission tower.

3. The Borough Council may require periodic inspections of monopoles installed within electrical transmission towers or antennae on electrical transmission towers at least once every ten years. They shall be conducted at the applicant's expense by an engineer licensed to practice in the State of New Jersey. The results of such inspection shall be provided to the Borough Engineer. Based upon the results of an inspection, the Council may require repair or removal of a communication tower.

4. Monopoles within electrical transmission towers and antennae and support structures therefor shall comply with Electronic Industries Association/Telecommunications Industries Association 22 Revision F Standard ("Structural Standards for Steel Antenna Towers and Antenna Supporting Structures") as it may be updated or amended.

5. Documentation shall be provided by a qualified expert that any proposed monopole or existing electrical transmission tower will have sufficient structural integrity to support the proposed antennae and any anticipated future collocated antennae and that the structural standards developed for antennae by the Electronic Industries Association and the Telecommunication Industry Association have been met.

F. Other standards applicable to antennae in a church steeple or on electrical transmission towers or monopoles installed within them.

1. Each applicant shall include either a preliminary or a certified statement that the wireless communication facilities, including reception and transmission functions, will not interfere with the usual and customary transmission or reception of radio, television, and other radio frequency transmissions and service enjoyed by emergency services of and residential and nonresidential properties within the Borough. In the event that only a preliminary statement is submitted with the application, a final, certified statement of noninterference shall be provided prior to the issuance of a building permit. The statement shall be prepared by an engineer licensed to practice in the State of New Jersey or other professional acceptable to the Borough and shall be subject to the review and approval of the Borough Engineer.

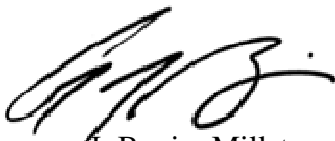
2. Each application for the installation of wireless communication facilities shall include written approval or a statement of no objection from federal, State, or county agencies having jurisdiction over same.

3. Any wireless communication facility that is not operated for a continuous period of 12 months shall be considered abandoned. The applicant or its successor or owner of the property shall remove same within 90 days of notice from the Zoning Officer that the facility is abandoned. If such facility is not removed within said 90 days, the municipality may remove such facility at the expense of the applicant or its successor and owner of the property. If the facility is to be retained, the applicant or its successor or owner of the property shall establish that it will be reused within one year of such discontinuance. If the applicant or its successor or owner of the property makes such demonstration, the facility may be retained. If it is not used within one year, however, a demolition permit shall be obtained by the applicant or its successor or owner of the property and the facility shall be removed. At the discretion of the Zoning Officer, upon good cause shown, the one year reuse period may be extended for a period not to exceed one additional year.

4. The applicant and applicant or it successor and owner of the property shall provide a performance bond or other assurances satisfactory to the Planning Board, in a form approved by the Board Attorney, that will assure that the wireless communication facilities, including the antennae and their support structure, the equipment compound, any monopole, and all other related improvements to the land, will be removed, at no cost to the Borough, when the antennae are no longer operative. The surety shall specifically provide that the Borough may call or use the surety without notice to the applicant and its successors or to the owner upon their failure to remove the wireless communication facilities in a timely manner.

7. This Ordinance shall take effect upon its filing with the Somerset County Planning Board and its passage and publication, as provided for by law.

I, Gregory J. Bonin, Borough Clerk of the Borough of Millstone, in the County of Somerset, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of an ordinance adopted by the Borough Council of the Borough of Millstone during their regular meeting of July 3, 2002.



Gregory J. Bonin, Millstone Borough Clerk