



## Conditional Uses and Supplemental Regulations

## **501 CONDITIONAL USES**

Before a construction permit or Certificate of Occupancy shall be issued for any conditional use as permitted by this Ordinance, application shall be made to the Planning Board for conditional use approval (N.J.S.A 40:55D-67.) The review by the Planning Board of a Conditional Use shall include site plan review pursuant to this Ordinance. Public notice and a hearing shall be required as stipulated and in accordance with Chapter 300 of this Ordinance.

### **A. General Requirements**

A development parcel may contain more than one use provided each of the uses is either a permitted or conditional use permitted in the zoning district, and site plan approval is obtained from the Planning Board.

### **B. Requirements for Specific Uses**

#### **1. Public Utility Uses**

- a. For purposes of this Ordinance, the term “public utility uses” shall include such uses as telephone equipment centers, power substations and other utilities serving the public, such as sewage treatment plants, but shall exclude dumps and sanitary landfills.
- b. The proposed installation in a specific location must be necessary for the satisfactory provision of service by the utility to the neighborhood or area in which the particular use is located.
- c. The design of any building in connection with such facilities must not adversely affect the safe, comfortable enjoyment of property rights in the surrounding area.
- d. Adequate fences and other safety devices must be provided as may be required. Fences, when used to enclose public utility facilities such as electrical power substations, shall be built in accordance with the applicable requirements of the New Jersey Board of Public Utility and the National Electrical Code in effect at the time of the construction.
- e. Landscaping, including shrubs, trees and lawns, shall be provided and maintained.
- f. Off-street parking shall be provided as determined by the Planning Board during site plan review.

## 2. Car Washes

- a. The minimum lot size for a car wash shall be 24,000 sq. ft., the minimum frontage shall be 120' and the minimum lot depth shall be 200'. The front yard minimum shall be 40' and the side and rear yard minimums shall be twenty feet 20'.
- b. All mechanical activities must be conducted within a totally enclosed building.
- c. Off-street parking shall be provided in accordance with Section 608B(2). All vehicle entrances shall be from the rear of the building and all parked & waiting vehicles shall be accommodated on the lot. Entrance access driveways shall not be located within 300' of the intersection of any two (2) street lines or within ten feet (10') of any lot line.
- d. One (1) sign shall be permitted, either free-standing or attached, not exceeding an area equivalent to five percent (5%) of the first floor portion of the front facade or 50 sq. ft., whichever is smaller. Free-standing signs shall be set back at least ten feet (10') from all street and lot lines.
- e. No car wash shall be located within 200' of any fire house, school, playground, church, hospital, public building or institution. A minimum 50' set back is required between any building or driveway on a lot utilized for a car wash and adjacent to any residential use or district.
- f. Development of car washes is subject to the building controls of the other area, yard, building coverage, height, and general requirements of the respective zone and other applicable requirements of this Ordinance.

## 3. Senior Citizen Housing

- a. Senior Citizen Housing is also known as the following in accordance with Section 200 of this ordinance:
  1. Adult Day Care
  2. Age-Restricted Housing
  3. Assisted Living Facility
  4. Congregate Senior Residence
  5. Independent Living Facility
  6. Nursing Home or Nursing Facility
- b. The maximum residential density shall not exceed ten (10) dwelling units per gross acre.

- c. No dwelling unit shall contain more than two (2) bedrooms.
- d. The maximum building height shall be the lower of 2 1/2 stories or 35' from TOC
- e. Off-street parking shall be provided in accordance with Section 608B(2).
- f. Individual dwelling units shall meet or exceed minimum design requirements in accordance with NJAC 5.28-1.11 and applicable codes of the City of Wildwood, whichever is more stringent.
- g. Prior to any City approval, the following prerequisites shall have been accomplished:
  - 1. Verification that there are adequate utility services and support facilities for the project, including existing and/or proposed transit and commercial establishments serving everyday needs, within a one mile walking distance of the proposed site.
  - 2. Assurance that the occupancy of such housing will be limited to households, the single member of which, or either the husband or wife of which, or both, or any of a number of siblings or unrelated individuals of which, or a parent of children of which is/are 62 years of age or older, or as otherwise defined by the Social Security Act, as amended, except that this provision shall not apply to any resident manager on the premises.
  - 3. Verification of preliminary approval of the project by any state or federal agency which finances or assists the financing or operation of such housing.
- h. All other applicable requirements of this Ordinance must be met.

4. Automobile Service Stations/Automobile Repair Facilities

- a. Automotive service stations, garages and car washes shall only have frontages along Rio Grande Avenue or New Jersey Avenue.
- b. The minimum lot size for the above referenced use as defined in Section 201 herein shall be 16,000 sf and the minimum frontage and depth shall be 100' each. The front yard minimum shall be 30', the side yard minimum shall be 25', and the rear yard minimum shall be 15'.

- c. No service station shall be located within 200' of any fire house, school, playground, church, hospital, public building or institution. A minimum 50' setback is required between any building on a lot utilized for a service station and adjacent to any residential use or district.
- d. All appliances, pits, storage areas and trash facilities other than gasoline filling pumps or air pumps, shall be within a building. Gasoline filling pumps and air pump station shall be a minimum of 20' apart. All lubrication, repair or similar activities shall be performed in a fully enclosed building and no dismantled parts shall be displayed outside of the enclosed building.
- e. No 'junked motor vehicle' or parts thereof shall be permitted on the premises of any service station. Moreover, no more than six (6) motor vehicles maybe located upon any service station premises outside of a closed or roofed building, in a screened area to the rear of the service station, for a period of time not to exceed 15 days, providing that the owners of said vehicle are awaiting their repair.
- f. Landscaping shall be provided in the front yard area and shall be reasonably distributed throughout the entire front yard area.
- g. The exterior display and parking of motor vehicles, trailers, boats or other similar equipment for sale shall not be permitted as part of a service station.
- h. Service stations shall provide off-street parking in accordance with section 608B(2). Such spaces shall be separated from the driveway and general apron areas which give access to the gasoline, air pumps and service areas. No designated parking space shall obstruct access to such facilities. No parking shall be permitted on unpaved areas or within five feet (5') of any property line. Driveways shall be a minimum of ten feet (10') from all lot lines, street intersections and other driveways on the same lot.
- i. Service stations may be permitted one free-standing sign and one (1) sign attached flat against the building. The free-standing sign shall not exceed an area of 60 sf and shall be set back at least ten feet (10') from all street rights-of-way and lot lines. The attached sign shall not exceed 25% of the area of the face of the wall upon which such sign is attached. Both the free-standing and building-attached signs maybe either lighted or unlighted.

5. Commercial Parking Lots and Garages

- a. A minimum lot size for a commercial parking lot or garage shall be 8,000 square feet with a minimum depth of 80 feet and a minimum frontage of 80 feet.
- b. All parking spaces shall be striped and the standards set forth in section 608 must be completely adhered to; however, any driveway access or curb cut shall not exceed 30 feet.
- c. All parking areas must be set back a minimum of six feet (6') from any street or property line. A screen of plantings shall be provided between the parking area and any lot line and shall be maintained so as not to overhang off-lot or into a designated parking area. At a minimum, a screen planting of evergreen material not less than three feet (3') in height of species native to the southern New Jersey barrier islands environment shall be used to form an effective screen. The site triangle, as defined in section 201, for all driveways shall not be violated by any plantings.
- d. No other activities or uses except for a public telephone or a licensed vending machine shall be permitted on-site.
- e. All other area, yard, coverage, height and general requirements of the respective zone and other applicable requirements of the Ordinance must be met.
- f. No construction permit shall be issued for any new parking lot designed for four (4) or more vehicles, or for an addition to an existing parking lot until the site plan has been reviewed and approved by the Planning Board.

6. "Water Oriented" Uses

- a. Principal uses which meet the definition of "water-oriented" uses pursuant to section 201 shall be permitted in the "MC-R and MC-T" District, subject to review by the Planning Board for a determination of the appropriateness of the proposed use. Said uses must serve the general public and shall be of a commercial type.
- b. The requirements of the respective zone and other applicable requirements of this Ordinance must be met except that the yard adjacent to the water may be reduced to four feet (4') and further that any structure, either attached or unattached, that extends beyond the setback area on the water side of the lot may do so if said structure is necessary for the operation of the principal use located on the lot.

7. Seasonal Christmas Tree Sales

- a. The annual sale of Christmas trees is permitted between December 1 and December 25, inclusive.
- b. All sales area shall be temporarily fenced.
- c. All such uses shall provide some form of temporary sanitary toilet facilities for use by the public. Such facilities shall be located so as not to be a nuisance to adjoining properties, and shall be screened and hidden from view to the largest extent possible.
- d. Premises used for the sale of Christmas trees shall be cleared and restored to their prior state by January 10<sup>th</sup> of the following year.

8. Restaurants Serving Alcoholic Beverages in the Boardwalk Amusement (BA) and Pier (P) Zones

- a. The restaurant must have a minimum of 100 seats for the service of meals, shall contain separate restroom facilities for men and women, and must be full-service restaurants providing complete meals including, but not limited to, dinners with soup, salad, main entrée, vegetables and desert.
- b. Service at a bar, waiting area, or counter shall not be permitted. No package food sales are permitted.
- c. No more than three (3) premises for which an alcoholic beverage license has been issued by the City of Wildwood may be located in the BA and P zones combined.
- d. No exterior signs encouraging or promoting the sale and consumption of alcoholic beverages shall be permitted on the premises.
- e. All regulations of the Alcoholic Beverage Control Authority and all regulations contained in Chapter 5 of the Code of the City of Wildwood shall remain applicable to the restaurant and supersede the provisions of this section in the event of a conflict.
- f. The City wishes to emphasize the family theme of the Boardwalk and to assure that no inappropriate behavior occurs as a result of the excessive consumption of alcoholic beverages. Service of alcoholic beverages in approved restaurants will require a management plan to be submitted to the Joint Planning and Zoning Board and the City Alcoholic Beverage Control Board,

which demonstrates that alcoholic beverages shall be served in a controlled, dignified, and upscale manner. This plan shall emphasize the culture of family fun, and shall mandate strict supervision by management to assure zero tolerance of inappropriate behavior resulting from the consumption of alcoholic beverages and no carrying of alcoholic beverages outside the licensed premises. Possession of alcoholic beverages in areas that are located outside of the designated alcohol service areas, as defined by the management plan, is prohibited.

9. Additional Requirements for Food Service Establishments Serving Alcoholic Beverages in the Pier (P) Zone

- a. Facilities serving alcoholic beverages shall be permitted in the Pier (P) Zone on amusement piers, including water park sections of amusement piers, and in beach areas adjacent to such water parks.
- b. Service of alcoholic beverages shall be limited to designated areas that are delineated on a plan to be approved by the Zoning and Planning Board. Service of alcoholic beverages shall be permitted as conditional uses only, and only when the owner of the license complies with the conditions set forth below and executes a written agreement with the City of Wildwood agreeing to be bound by these conditions, unless or until the same are vacated or modified. A single liquor license may authorize service in all areas of a single property in the Pier (P) Zone, including at a restaurant, in a water park, and in an adjacent area, provided that the following requirements are met.
- c. Approval of the transfer of a liquor license to any location in the Pier (P) Zone, or the extension of the alcoholic service area under a license to a new location in such zones must be approved by the Zoning and Planning Board, which approval shall be subject to the approval of the place-to-place transfer of the liquor license by the Local Alcoholic Beverage Control Issuing Authority.
- d. No alcoholic beverages may be removed from the licensed premises by a patron at any time. No packaged goods sales are permitted.
- e. Each alcoholic service area in the Pier (P) Zone shall have convenient access to pier-provided restroom facilities for adults and children.
- f. All regulations of the Division of Alcoholic Beverage Control and all regulations contained in the Code of the City of Wildwood, to the extent not inconsistent with these conditions, shall remain applicable to all service locations.



- g. Signs indicating the legal drinking age and that each alcohol service location will check identification are to be displayed at every outlet where the public may purchase alcoholic beverages.
- h. Service of alcoholic beverages in the Pier (P) Zone shall require a management plan for each service location to be submitted to the Local Alcoholic Beverage Control Issuing Authority, which demonstrates that alcoholic beverages shall be served in a controlled, dignified, and upscale manner. This plan shall mandate strict supervision by management to assure zero tolerance of inappropriate behavior resulting from the consumption of alcoholic beverages and no carrying of alcoholic beverages outside the licensed premises.
- i. Service of alcoholic beverages on an amusement pier shall be limited to the hours of operation at the amusement pier, but not later than 12:00 midnight. Sale of alcoholic beverages in any water park section of the Pier (P) Zone shall only be permitted between the hours of 10:00 a.m. and 12:00 midnight, prevailing time, and no consumption of alcoholic beverages shall be permitted within the facility prior to 10:00 a.m. or after 12:30 a.m., prevailing time. Service may also be allowed whether the facility is open to the public or not, for special events during the offseason hours between 10:00 a.m. and 12:00 midnight, with no consumption after 12:30 a.m. and prior to 10:00 a.m., provided that 72 hours' notice of an intent to serve alcoholic beverages during the special event has been given in writing to the Chief of Police and City Clerk. Service of alcoholic beverages in any extended area on or above a beach area shall only be permitted between the hours of 10:00 a.m. and sunset, and no consumption of alcoholic beverages shall be permitted within such area prior to 10:00 a.m. and one-half hour after sunset.
- j. Areas where alcoholic beverages are served shall be bordered by fencing, landscaped areas, water features, or other buffers, as well as signage, which delineate and separate areas where alcoholic beverages are served from non-service areas.
- k. Possession of alcoholic beverages in areas that are located outside of the designated alcohol service areas, as defined in the management plan, is prohibited.

10. Outdoor Decks, Patios, and other Seating, Accessory to Restaurants and Bars

- a. No outdoor patio shall encompass more than the greater of 40' or 50% of the frontage of the building, or portion of the building, used for the host establishment unless the frontage of such host establishment is less than 40' wide. In such case, the outdoor patio may encompass the entire frontage of the host establishment, exclusive of proper entrances and exits.
- b. Each outdoor patio area must be surrounded by a landscape perimeter barrier, with live vegetation. Planter boxes must be at least two feet (2') from TOC, and the shrubbery in the planter boxes may not exceed three feet (3') from TOC.
- c. Only canopies, awnings or umbrellas which are anchored to the host building are permitted. No permitted canopy or awning shall contain any advertising material or signage other than the name and/or logo of the host establishment.
- d. Occupancy by more than one (1) patron per 20 s.f. of lawful outdoor patio area is prohibited.
- e. The site plan application for an outdoor patio must contain a drawing indicating the type and location of furniture, canopy, awning or umbrella to be used. All such furniture shall be uniform. Said drawing shall also illustrate how service is to be rendered to all areas of the outdoor patio. Service may only be from inside the host establishment.
- f. The site plan application to be submitted shall depict and specify the number of entrances to the outdoor patio from the public right-of-way, which shall be limited to one (1) entrance for every 40' of patio frontage. Such entrances may not exceed 6' in width.
- g. No service of alcoholic beverages is permitted in any outdoor patio for off-premises consumption.
- h. No sign shall be permitted to be affixed to any portion of the outdoor patio, nor may any sign extend beyond the perimeter of the outdoor patio or extend from the host establishment or any adjacent building over the patio area.
- i. No outdoor patio may be used for the display or location of merchandise, advertising materials or vending machines.
- j. All outdoor patio furniture shall be removed from the outdoor patio area when the outdoor patio is not open for business, whether by operator's choice, inclement weather or due to permitted hours of operation. In the alternative,

the outdoor patio area may be closed-off by the use of a landscape perimeter barrier as described above or by a decorative cord or chain.

- k. No outdoor table, equipment or other accessory object shall extend into the public right-of-way.
- l. Such outdoor patio seating shall be limited to not more than 20% of the total seating for the establishment.

#### 11. Community Residences and Community Shelters

- a. Any community residence for the developmentally disabled or community shelter for victims of domestic violence that house more than six (6) persons, excluding resident staff, shall require Conditional Use Approval for the use or conversion to use a dwelling unit for such shelter or residence.
- b. In no case shall more than 15 persons, excluding resident staff, occupy any community residence or community shelter.
- c. The minimum area and yard requirements applicable to the particular zoning district, each shall be increased by 16.67% for each person housed in the community residence or community shelter over and above the six (6) persons noted hereinabove.
- d. No community residence for the developmentally disabled or community shelter for victims of domestic violence occupied by more than six (6) persons shall be located within 1,500' of an existing community residence or community shelter.
- e. Conditional Use Approval shall not be granted if the total number of persons, other than resident staff, residing at such community residences or community shelters exceeds 50 persons or 0.5% of the population of the City, whichever is greater.
- f. The residential character of the lot and buildings shall not be changed and there shall be no exterior evidence of the community residence or community shelter. No signs shall be permitted except information and direction signs as permitted for single-family detached dwellings.
- g. The following design requirements shall be incorporated within the submitted plan:
  - 1. Each community residence or community shelter shall be connected to public water and sewer facilities.

2. Community residences or community shelters shall have immediate access to public transportation services or, in the alternative, provide occupants with a van or equivalent transportation service.
  3. Community residences or community shelters shall resemble single-family detached dwellings in appearance.
- h. All community residences or community shelters shall have three fourths (3/4) parking space for each resident thereof. The Planning Board shall give due consideration to provisions for visitation and the number of resident staff in order to ensure that there are ample parking facilities. The Planning Board may in its discretion, require more parking spaces than three fourths (3/4) per resident or may, if the evidence so warrants, waive strict adherence to this standard. Sufficient off-street area is to be provided for the pick-up and discharge of occupants by vans or other vehicles servicing the residents.
  - i. All of the other area, yard, building coverage, height and general requirements of the respective zone and other applicable requirements of this Ordinance must be met.

## **502    GENERAL EXCEPTIONS**

### **A.    Public Election Voting Places**

The provisions of this Ordinance shall not be construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

### **B.    Public Utility Lines**

Public utility lines for the transportation and distribution and control of water, electricity, gas, oil, steam, telegraph and telephone communications, and their supporting members, other than buildings or structures, shall not be required to be located on a lot nor shall this Ordinance be interpreted as to prohibit the use of a property in any zone for the above uses.

### **C.    Bus Shelters**

The provisions of this Ordinance shall not be construed as to interfere with the placement and location use of any bus/trolley stop shelter, provided that the placement of said shelter is within the right-of-way of City/County streets and of a design and location is approved by City administration. Furthermore, bus/trolley

stops may only be located along designated NJ Transit bus routes and designated trolley routes.

### **503    ACCESSORY APARTMENTS**

- A. An additional dwelling unit may be created on lots in the R-1, R-2, R-3, RM, WR, WR-1, and MC-R districts by the addition of an accessory apartment within a single-family dwelling on a lot which meets all the requirements specified herein.
- B. The requirements for lot frontage, width, depth, coverage and all setbacks shall be as required for a single-family dwelling in the zone.
- C. Accessory apartments within a single-family dwelling shall provide off-street parking in accordance with Section 608B(2).
- D. Adequate sewage disposal and water supply shall be provided as approved by the Cape May County Board of Health.
- E. An accessory apartment shall be no larger than 25% of the net habitable floor area of the dwelling unit and a minimum of 500 sq. ft.
- F. An accessory apartment shall have at least two (2) rooms and shall have sanitary facilities, cooking facilities and a kitchen sink for the exclusive use of its occupants.
- G. Each and every dwelling unit shall have direct access to the outdoors or to a hall from which there is direct access to the outdoors.
- H. Any application for creation of an apartment involving the enlargement of an existing dwelling shall be evaluated in terms of the need for adequate space for the apartment and remaining residential unit, and/or creation of adequate facilities for both units, and/or adequate access to both units. In any case, the area of the accessory apartment shall be no more than 25% of the net habitable floor area of the existing building. Before a construction permit or Certificate of Occupancy shall be issued for any creation of an apartment involving the enlargement of an existing dwelling, application shall be made to the Planning Board for a Conditional Use as permitted by this Ordinance. The review by the Planning Board of a Conditional Use shall include any required site plan review pursuant to this Ordinance.

#### **504    FEE SIMPLE TOWNHOUSE LOTS**

Lot and yard dimensions encompassing individual townhouse dwelling units may be freely disposed and arranged on a tract of land, provided they are superimposed upon an approved site plan for the subject development. Additionally, the following provisions shall be met:

- A. The boundaries of any lot shall not infringe upon any common open space land areas, nor shall the boundaries of any lot be closer than five feet (5') from any driveway or parking lot area.
- B. No lot line shall be located closer than 15' from any tract property line nor closer than ten feet (10') from any street.
- C. No construction permit shall be issued for any townhouse dwelling unit, at any time, unless the proposed construction is in accordance with the approved site plan, and this condition shall be recited in the deed of the subdivided townhouse lot.

#### **505    TOWNHOUSES AND APARTMENTS**

No townhouse or apartment dwelling unit shall be constructed in the City, except for the MC-R Zone, unless the dwelling is part of an approved site plan and unless the following minimum standards are met in addition to other applicable requirements of this Ordinance:

- A. Each building and complex of buildings shall have an architectural theme with appropriate variations in design to provide attractiveness to the development; compatible within the development and in relation to adjacent land uses. Such variations in design shall result from the use of landscaping and the orientation of buildings to the natural features of the site and to other buildings as well as from varying unit widths, using different exterior materials, changing roof lines and roof designs, varying building heights and changing window types, shutters, doors, porches and exterior colors. Architectural elevations shall be submitted to the Board for review and approval.
- B. All dwelling units shall be connected to approve functioning water & sanitary sewer systems prior to the issuance of a Certificate of Occupancy.
- C. All parking facilities shall be on the same site/lot as the building and located within 150' of the nearest entrance of the building they are intended to serve. Parking spaces shall be provided in areas designed specifically for parking and there shall be no parallel or diagonal parking along interior streets. Townhouse or apartment dwellings shall provide off-street parking in accordance with Section 608B(2).

Each car garage space shall together be considered one (1) parking space; provided that the driveway is dimensioned to park a car off-street in accordance with the definition of "Parking Space" in section 201 of this Ordinance.

- D. No outside area or equipment shall be provided for the hanging of laundry or the outside airing of laundry in any manner. Sufficient area and equipment shall be made available within each building for the laundering and artificial drying of the laundry of the occupants of each building.
- E. Dwelling units shall have access to a master television antennae system and individual townhouse units may not erect individual external television antennae.
- F. Each unit shall have the following minimum net habitable floor areas:

Units shall meet the minimum requirements in accordance with sections 411R & 411S. No townhouse dwelling unit shall be less than twenty feet (20') wide.

<u>Apartments</u>			<u>Townhouses</u>
Efficiency	-	350 sq. ft.	
1-bedroom	-	550 sq. ft.	1-bedroom - 700 sq. ft.
2-bedrooms	-	800 sq. ft.	2-bedrooms - 950 sq. ft.
3-bedrooms	-	1050 sq. ft.	3-bedrooms - 1200 sq. ft.
4-bedroom	-	1300 sq. ft.	4-bedrooms - 1459 sq. ft.

- G. For each apartment unit, in addition to any storage area contained inside individual dwelling units, there shall be provided for each dwelling unit 250' cu. ft. of storage area in a convenient, centrally located area in the cellar, basement or ground floor of the building where personal belongings & effects may be stored without constituting a fire hazard and where said belongings and effects may be kept locked and separated from the belongings of other occupants.
- I. Adequate trash and garbage pick-up stations shall be provided within a totally enclosed container located in a manner to be obscured from view from parking areas, streets and adjacent residential uses by a fence, wall, planting or combination of the three (3) screenings.
- J. Each apartment or townhouse development may have one (1) sign along each public street which the tract in question abuts, provided there exists at least 250' of unbroken frontage. Such signs shall not exceed ten feet (10') in height, shall

be set back from the street rights-of-way, property lines, and driveways at least ten feet (10') and shall not exceed an area of 25 sq ft and shall be used to display the development's name.

## **506 PLANNED COMMERCIAL DEVELOPMENT**

In 2002, the Governing Body undertook the statutory process to declare the City's former municipal landfill, then known as the Bayshore Village section of Wildwood, to be an "Area In Need of Redevelopment" under the State of New Jersey's Local Redevelopment and Housing Law.<sup>1</sup> The Bayside Area was formally declared to be "In Need of Redevelopment" in July 2002, and a Redevelopment Plan was adopted in August of that year.

That original plan was subsequently updated with the "Amended and Restated Bayside Area Redevelopment Plan" (Ordinance 1109-18) in June of 2018.

## **507 WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS**

- A. Wireless telecommunications towers and antennas are defined in section 201. Wireless telecommunications towers and antennas shall be permitted as conditional uses as follows:
  - 1. New wireless telecommunications towers and antennas shall be permitted as conditional uses in zones designated as MC-T, REC, LI, RM, H/M-1, H/M, and T/E within City of Wildwood; on quasi-public and municipally owned properties; and on municipally owned water towers. Such facilities shall be subject to the conditions set forth in this section. The Planning Board shall review and approve the site plan for any new wireless telecommunications facility.
  - 2. Wireless Telecommunications towers and antennas shall be expressly prohibited in the zones designated R-1, R-2, R-3, WR, WR-1, MC-R, GC, BA, B, P, PO, BSRA, and C.
- B. Preexisting towers and antennas. Wireless telecommunications facilities that existed on the date of the adoption of this section (nonconforming wireless telecommunications towers) are subject to the following provisions:
  - 1. Nonconforming wireless telecommunications towers may continue in use for the purpose now used, but may not be expanded (i.e., by increasing size or height or by adding additional users) without complying with this section.

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<sup>1</sup> N.J.S.A. 40A:12A-1 et. seq.



2. Nonconforming wireless telecommunications towers which are partially damaged or destroyed due to any reason or cause may be repaired and restored to their former use, location and physical dimensions subject to obtaining a building permit therefore, but without otherwise complying with this section. However, should the destruction or damage be determined by the City of Wildwood Zoning Board and/or Zoning Official to be of such an extent that it is beyond the scope & intent of the "partial destruction" clause of N.J.S.A. 40:55D-1 then repair or restoration will require compliance with this section.
3. The owner of any nonconforming wireless telecommunications tower may repair, rebuild, or upgrade in order to improve the structural integrity of the facility, to allow the facility to accommodate collocated antennas or facilities on existing platforms, or to upgrade the facilities to current engineering, technological or communications standards without having to conform to the provisions of this section.
4. 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 section 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 within the required time frame shall constitute grounds for the immediate removal of the tower or antenna at the owner's expense.

C. General requirements for towers and antennas.

1. All local communications facilities subject to the provisions herein located within the City of Wildwood must obtain a Coastal Permit as defined in section 201, pursuant to any of the following statutes: the Coastal Area Facility Review Act (CAFRA), N.J.S.A. 13:19-1 et seq., the Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq., or the Waterfront Development Law, N.J.S.A. 12:5-3, as applicable.
2. Locational priority. If needed in accordance with this section for the provision of full wireless telecommunications services within the City of Wildwood area, wireless telecommunications towers, where permitted as a conditional use in accordance with Subsection A(1) and (2) above, shall be located in accordance with the following locations:
  - a. Existing towers. The first priority location shall be collocation on existing telecommunications towers, provided, however, that locations which meet

this criteria shall be subject to the design and citing components of this section, and collocation sites shall not become "antenna farms" or otherwise be deemed by the Planning and/or Zoning Board as well as City Commission to be visually obtrusive.

- b. Publicly used structures. The second priority location shall be on land or structures owned by, in order of specific preference, 1) City of Wildwood; 2) the Board of Education of the City of Wildwood; 3) quasi-governmental units of the City of Wildwood, the County of Cape May; 4) the State of New Jersey; 5) any other state, county or local governmental agencies or bodies. These publicly used structures are preferred locations throughout the City of Wildwood because they appear in many zoning districts, are disbursed throughout the City of Wildwood and, due to their institutional or infrastructure uses, are generally similar in appearance to, or readily adaptable for, telecommunications facilities. Therefore, telecommunications facilities should be less noticeable when placed on publicly used structures than when placed on a commercial structure. Publicly used structures include, but are not limited to, facilities such as municipal buildings, police or fire stations, schools, libraries, community centers, civic centers, utility structures, water towers, elevated roadways, electrical transmission towers, bridges, flagpoles, clock or bell towers and light electrical poles.
  - c. The third priority location shall be wholly industrial/commercial structures such as warehouses, factories, retail outlets, supermarkets and high-rise structures, particularly where existing visual obstructions or clutter on the roof or along a roofline can and will be removed as part of the installation of the telecommunications facility.
  - d. The fourth priority location shall be such locations as the applicant proves are essential to provide required service to the City of Wildwood.
- 3. The total number of local communications facilities in the municipality shall be the minimum necessary to provide adequate service. As such, no application for construction of a local communications facility shall be approved until the applicant has demonstrated that there is a need for the facility and that there is no such existing, suitable facility within the service area that could be utilized. Citation by a recognized Radio Frequency (RF) Engineer in a certified plan shall be evidence of the general need in the areas but not as to a specific site.
  - 4. Within the City of Wildwood, all new local communications facility towers shall be located within the area consistent with a demonstrated service need for the facility, as provided by a recognized Radio Frequency (RF) Engineer, but in no case beyond a radius of the area specified in a documented report by the

applicant. The applicant will initially determine and demonstrate a technically feasible search area for this demonstrated need radius.

5. If the search area crosses the boundaries of the City of Wildwood, the applicant shall seek to site the facility in accordance with this section. This policy requires the following order of preferences:
  - a. Outside the city limits of the City of Wildwood.
  - b. Within the City of Wildwood, and in accord with the locational priorities established in subsection C(2) above. On developed publicly owned lands extended from 500 feet of an existing telecommunications structure, provided that the facility will be located on previously disturbed lands that have not subsequently been restored and that no facility will be located on state, county or municipal conservation lands, state recreation lands or county and municipal lands used for low-intensity recreational purposes.
  - c. On the parcel of an existing police, municipal public works, first aid or fire station, pending the execution of lease or share-use agreement with said owner of parcel.
  - d. On the parcel of an existing landfill, provided that the facility will be located on previously disturbed lands that have not subsequently been restored, pending the execution of lease or share-use agreement with said owner of parcel.
  - e. In the event that more than one of the sites listed above exists within an area authorized for a new local communications facility tower, the applicant shall be required to address how such sites relate to the locational priorities in subsection C(2) above.
6. Local communications facilities shall be developed in accordance with the following visual standards to the extent feasible and consistent with other provisions contained herein. These standards require that:
  - a. Such facilities shall minimize visual impacts as viewed from publicly dedicated roads & highways and from other areas frequented by the public by, in order of decreasing priority. Such facilities shall avoid, to the maximum extent practicable, any direct line of sight from the public beach or bay waters.
  - b. Such facilities shall minimize visual impacts as viewed from existing residential dwellings located on contiguous parcels adjacent to

designated zones through adherence to the buffer & setback requirements established elsewhere in this section.

- c. Such facilities shall minimize visual impacts as viewed from public in accordance with the Coastal Area Facility Review Act (CAFRA), N.J.S.A. 13:19-1 et seq. and/or the Waterfront Development Law, N.J.S.A. 12:53, as applicable.
7. If multiple sites for new towers that meet all other qualifications are available, the site with the least visual impact should be selected; if only a single qualifying site is available, the best location on the site that meets all other standards must be used.

D. Design & construction.

- 1. The design & construction of a new local communications facility towers shall adhere to the provisions of the Coastal Area Facility Review Act (CAFRA), N.J.S.A. 13:19-1 et seq. and/or the Waterfront Development Law, N.J.S.A. 12:5-3, as applicable, regarding setbacks from scenic corridors and in environmentally sensitive areas.
- 2. To the extent feasible and consistent with other provisions contained herein, towers shall be painted in accordance with subsection (R) so as to reduce visual obstructiveness, subject to any applicable standards of the FAA.
- 3. At a tower site, the design of the buildings & related structures on ground level, shall, to the extent possible, use material, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.

E. Collocation policy.

- 1. Prior to any collocation on any cell tower, the applicant shall first provide the City of Wildwood with the right of first refusal for the installation of public safety equipment necessary to the functioning of the City of Wildwood's telecommunications network.
- 2. Each applicant for a new telecommunications tower shall present documentary evidence regarding the need for wireless antennas within the City of Wildwood, in accordance with subsection C(3) herein. This information shall identify the wireless network layout and coverage areas to demonstrate the need for such equipment within the City of Wildwood.

3. An applicant proposing to erect a new wireless telecommunications tower shall provide documentary evidence that a legitimate attempt has been made to locate the antennas on existing buildings, structures or collocation sites. Such evidence shall include a radio frequency engineering analysis of the potential suitability of existing buildings, structures or collocation sites in the search area for such antennas. Efforts to secure such locations shall be documented through correspondence between the wireless telecommunications provider and the property owner(s) of the existing building, structures or collocation sites. The City of Wildwood reserves the right to engage a professional Radio Frequency Engineer, under a Professional Services Agreement, to review such documentation. The cost of such review shall be paid from escrow funds supplied by the applicant.
4. Applicants proposing to construct new telecommunications towers shall document the locations of all existing telecommunications towers within the City of Wildwood and surrounding areas outside the boundaries of the City of Wildwood, with coverage in the City of Wildwood, as well as any changes proposed within the following twelve-month period, including plans for new locations or the discontinuance or relocation of existing facilities. Applicants shall provide competent testimony by a Radio Frequency Engineer regarding the suitability of potential locations in light of the design of the wireless telecommunications network. Where a suitable location on an existing tower is found to exist, but an applicant is unable to secure an agreement to collocate its equipment on such tower, the applicant shall provide written evidence of correspondence with the owner of such tower verifying that suitable space is not available on the existing tower(s). Where an applicant seeking to construct a new tower is not a wireless service provider, the applicant shall prove that adequate wireless telecommunications services, sufficient to meet the requirements of the Federal Telecommunications Act of 1996, as amended, (hereinafter "FTA") cannot be provided without the proposed tower.

F. Site location alternative analysis

Each application shall include a site location alternative analysis describing the location of other sites considered, the availability of those sites, the extent to which other sites do or do not meet the provider's service or engineering needs and the reason why the subject site was chosen. The analysis shall address the following issues:

1. How the proposed location of the telecommunications tower relates to the objective of providing full wireless communications services within the City of Wildwood area.
2. How the proposed location of the telecommunications tower relates to the location of any existing antennas within and near the City of Wildwood area.

3. How the proposed location of the telecommunications tower relates to the anticipated need for additional antennas within and near the City of Wildwood area by the applicant and by other providers of wireless communications services within the City of Wildwood area.
  4. How the proposed location of the telecommunications tower relates to the objective of collocating the antennas of many different providers of wireless communications services on the same wireless telecommunications tower.
  5. How its plans specifically relate to, and are coordinated with, the needs of all other providers of wireless communications service within the City of Wildwood area.
- G. State or federal requirement. 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, the owners of the towers and antennas governed by this Section shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency, in which case the latter scheduling will control. 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.
- H. Safety standards/building codes. To ensure the structural integrity of towers, the owner of a telecommunications facility shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for such telecommunications facilities, as amended from time to time and as may be published by the Electronics Industries Association, or such other agency or association having expertise in the field. Owners of towers shall conduct periodic inspections of such facilities at least once every year to ensure structural integrity, said inspection shall be conducted by a qualified, independent engineer licensed to practice in the State of New Jersey, and the results of such inspection shall be provided, by way of written report, to the City of Wildwood Commissioners and the Construction Official of the City of Wildwood. Failure to undertake such inspection and/or provide the City of Wildwood with the aforementioned report shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- I. Tower setbacks. The following setback requirements shall apply to all ground level telecommunications towers and antennas; provided, however, that the Planning and/or Zoning Board may reduce the standard setback requirements of this section

if the goals of this section would be better served thereby; and, in the event any of the following provisions conflict with one another, then the more strenuous and stringent standards shall apply:

1. Towers shall meet the setbacks of the underlying zoning district or 100% of the height of the tower including all antennas and attachments, whichever is greater, and the tower does not encroach upon any easements unless the applicant can demonstrate that a tower failure will have a lesser impact on the surrounding area.
  2. A fall zone shall be established such that the tower is set back 100% of the height of the tower, including all antennas and attachments, from any adjoining lot line, street right-of-way line, areas used for public access (including the Boardwalk) or non-appurtenant access or building, unless the applicant can demonstrate that a tower failure will have a lesser impact on the surrounding area.
  3. Towers shall be set back from the public rights-of-way as shown the Tax Map of the City of Wildwood by a minimum distance equal to 1.5 of the height of the tower, including all antennas and attachments.
  4. Towers shall not be located between a principal structure and a public street, except that at sites adjacent to public streets or waterways on all sides, towers may be placed within a side yard abutting a local street.
  5. Towers must be set back a distance equal to 1.5 times the height of the tower from any off-site residential structure.
  6. For antennas attached to the roof or a side-mounted supporting structure on a rooftop, a setback ratio at the discretion of the Board, shall be maintained unless an alternative placement is shown to reduce visual impact.
  7. A tower's setback may be reduced or its location in relation to the public street may be varied at the discretion of the Board to allow the integration of a tower into an existing or proposed structure, such as a church steeple, light standard, attached or on top of an electrical transmission tower, tower line support device or similar structure.
- J. 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 such other requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located only on a portion of such lots.
- K. Abandonment and removal.

1. Abandonment. Any telecommunications tower and equipment which are not operated for wireless communications purposes for a continuous period of six (6) months shall be considered abandoned, whether or not the owner or operator intends to make use of it or any part of it, and shall be removed by the facility owner at its costs. The owner of a telecommunications tower and the owner of the property where the facility is located shall be under a duty to remove the abandoned telecommunications tower. If such antenna and/or tower are not removed within 60 days of receipt of notice from the City of Wildwood notifying the owner of such abandonment, the City of Wildwood may remove such tower and/or antenna as set forth below.

If the owner of an abandoned tower or antenna wishes to use such abandoned tower or antenna, the owner must first apply for and receive all applicable permits and meet all of the conditions of this section as if such tower or antenna was a new tower or antenna.

2. Removal. When an owner of a telecommunications tower and antenna, who has been notified to remove same, fails to do so within 60 days of receipt of notice from the City of Wildwood notifying the owner and/or operator of such abandonment and the need to remove same, then the City of Wildwood may remove such tower and/or antenna and place a lien upon the property for the cost of removal. If removed by the owner, a demolition permit shall be obtained and the equipment shall be removed. Upon removal, the site shall be cleaned, restored and re-vegetated to blend with the existing surrounding vegetation at the time of abandonment. The facility owner shall post a performance bond/surety at the time that a construction permit is issued for demolition to cover the cost of tower removal and site restoration. The amount of the bond shall be calculated by the City Engineer, and shall have taken into consideration any cost escalation that may be reasonably anticipated.

Any delays by the City of Wildwood in taking action under this clause shall not in any way waive the City of Wildwood's right to take such action.

L. Principal accessory & joint uses.

1. Accessory structures used in direct support of a telecommunications tower shall be allowed but not be used for offices, vehicle storage or other outdoor storage.
2. Emergency generators shall be designed to have capacity up to the maximum design load for all carriers attach to the tower.
3. Mobile or immobile equipment not used in direct support of a telecommunications facility shall not be stored or parked on the site of the telecommunications facility.



4. Telecommunications towers may be located on sites containing another principal use in the same buildable area.
- M. Monopole construction. Monopole tower construction shall be utilized in all cases except where it can be conclusively demonstrated that a monopole construction is not suitable for a specific location or application or that a different type pole is necessary for the collocation of additional antennas on the tower.
- N. Additional submission requirements for Conditional Use/Site Plan Approval. A report from a qualified Radio Frequency Engineer expert containing the following is required:
1. A description of the tower and the technical and other reasons for the tower design and height, including cross sections and elevations.
  2. Documentation to establish that the tower and foundation has 1) sufficient structural integrity to withstand ice loading (1/2 inch of radial ice) with wind, for a minimum of 85 knot winds at the proposed location, and 2) meets the minimum safety requirements & margins according to FCC requirements in their current adopted standards and revisions and also as follows:
    - a. Tower design in accordance with Electronic Industries Association Standard TIA/EIA-222-F
    - b. American National Standards Institute (ANSI) A58.1 or ASCE-7, whichever is stricter.
    - c. Design of tower up to five (5) potential carriers
    - d. Tower foundation design to serve capacity of design height of 200ft with the above subsection taken in account.
  3. Indicates the height above grade for all potential mounting positions for collocated antennas and the minimum separation distance between antennas.
  4. Description of the tower's capacity, including the number and type of antennas that it can accommodate.
  5. Statement detailing current FCC information concerning wireless telecommunications towers and radio frequency admission standards as well as information on the projected power density of the proposed facility and how it meets the FCC standards.
  6. A letter of commitment by the applicant to lease excess space on the tower to other potential users at prevailing rates and standard terms. The letter of commitment shall be recorded prior to the issuance of any building permits. The

letter shall commit the tower owner and his successors in interest to this obligation. However, the City of Wildwood has the first right of refusal to locate public safety equipment on any tower for consideration before the Planning and/or Zoning Board.

7. Statement of voluntary commitment to allow the City of Wildwood to locate public safety equipment on any tower, in accordance with design of the tower's capacity.
8. Cessation of use. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations of the site shall be submitted at the time of the application.
9. Visual impact study. A visual impact study, graphically simulating through models, computer-enhanced graphics or similar techniques the appearance of any proposed tower and indicating its view from at least five locations around and within one mile of the proposed wireless telecommunications tower where the wireless telecommunications tower will be most visible, shall be submitted. Aerial photographs of the impact area shall also be submitted.
10. Design requirement. Telecommunications towers shall preferable the style of Alternative Facility Design or mounted to a principal structure or secondary, be a monopole design unless the Board determines that an alternative design would better blend into the surrounding environment or is necessary for the collocation of additional antennas on the tower.
11. Aesthetics. 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 the tower and related facilities to the natural setting and built environment. The towers themselves shall be of a color appropriate to the tower's locational context so as to make it as unobtrusive as possible in accordance with this section, unless otherwise required by the FAA. To the extent that any local communications facility or its supporting new tower extends above the height of the vegetation immediately surrounding it, they shall be painted in accordance with this section.
12. Accessory utility buildings. All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground-mounted equipment shall be screened from view in accordance with subsection (13) herein, except where a design of non-vegetative screening buffer reflects and complements the architectural character of the

surrounding neighborhood. A landscape plan shall be submitted for review of proposed screening.

O. Landscaping.

1. Landscaping by evergreen plantings or species native to the southern New Jersey barrier islands environment, shall be provided along the perimeter of a security fence to provide a visual screen or buffer for adjoining private residential properties and the public right-of-way. Required front yard setbacks shall be landscaped. Existing on-site vegetation shall be preserved or improved, and disturbance of existing topography shall be minimized unless such disturbance would result in less visual impact of the site to the surrounding area. Any access road to the local communications facility shall be landscaped or be oriented in such a way as to preclude a direct view of the facility from a public venue. The following shall apply:
  - a. One or more rows of vegetation, at least six (6) feet in height when planted and capable of forming a visual barrier at least 15 feet in height within five (5) years of planting.
  - b. Adjacent to residential zones and recreational areas, an additional staggered row of deciduous trees no less than two-and one-half-inch caliper shall be strategically planted around the tower compound.
  - c. The screening shall be maintained and replaced as necessary while the facility is in service.
  - d. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible.
  - e. Supplemental evergreen plantings shall be planted among mature tree growth to provide a visual barrier within five (5) years of planting on sites with existing vegetation. In some cases, such as towers on large lots, natural growth around the property perimeter may be a sufficient buffer.
2. The following standards shall apply to clearing and landscaping for construction of new local communications facilities:
  - a. Clearing of existing vegetation shall be the minimum necessary to allow for access to and operation of the facility.

- b. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from all residential zones, recreational areas or public roadways.
- P. Lighting. No lighting is permitted except as follows:
  - 1. Equipment buildings and compounds may have security and safety lighting at the entrance, provided that the light is attached to the facility, is focused downward and is on timing devices and/or sensors so that the light is turned off when not needed for safety or security purposes.
  - 2. No lighting is permitted on a wireless telecommunications tower except lighting that specifically is required by the FAA, and any such required lighting shall be focused and shielded to the greatest extent possible so as not to project towards adjacent and nearby residential properties.
- Q. Height. The antenna and any supporting structure shall not exceed a height that is absolutely necessary to provide service for telecommunications service.
- R. Signs and advertising. No advertising is permitted on a telecommunications tower or accompanying facilities. Only informational signs for warning or equipment information shall be permitted on any portion of a tower or equipment building. One (1) emergency contact information sign is allowed to a size only adequately needed to display the necessary information and the size is at the discretion of the Board.
- S. Fencing and other security devices. Telecommunications towers and equipment buildings in compounds shall be surrounded with security features, including an appropriate anti-climbing device or other similar protective device to prevent unauthorized access to the telecommunications facilities; and shall be further surrounded with a security fence not less than six (6) feet high. Additional safety devices shall be permitted or required as needed, and as approved by the Board as may be necessary.
- T. Noise. No equipment shall be operated so as to produce noise in excess of limits set by New Jersey law or City of Wildwood Ordinance, whichever is stricter. Back-up generators shall comply with this section as applicable.
- U. Radio frequency emissions.
  - 1. The FTA gives the FCC sole jurisdiction over the field of regulation of radio frequency (RF) emission, and telecommunications towers that meet the FCC standards shall not be conditioned or denied on the basis of RF impacts. Applicants shall provide current FCC information concerning wireless telecommunications towers and radio frequency emissions standards.

Applicants for telecommunications towers shall be required to provide information on the projected power density of the proposed facility and how this meets the FCC standards.

2. At annual intervals from the date of the issuance of the conditional use permit, the applicant shall submit measurement of the noise and the RF emissions from the local communications facility. Such measurements shall be made by a qualified technician, which shall certify that the measurements are within applicable limits.

V. Application requirements.

1. Pre-application conference. Early consultation by applicants with municipal officials and representatives of NJDEP is encouraged so that all information necessary for an informed decision is submitted and delays are avoided. As such, prior to submission of a development application for approval of a local communications facility in accordance with this section, the applicant may request to convene with the appropriate Board at a public meeting in order to discuss the proposed facility in general terms and to clarify the filing requirements. Upon receipt of a written request for a pre-application conference, the Board will meet with the applicant at the next regularly scheduled meeting of the Board for which adequate public notice can be provided. There are no formal filing requirements for this conference, however the applicant is encouraged to prepare sufficient preliminary architectural & engineering drawings to inform the Board of the general location and likely scale & design of the facility. Failure to request such a conference will not prejudice any subsequent consideration of a formal application by the board.
2. Site plan approval by the appropriate Board shall be required before any new local communications facility may be erected. The following information is in addition to Section 800 and shall be submitted to the appropriate Board for its review:
  - a. Photos of the proposed site of the facility showing current conditions.
  - b. The setback distance from the nearest structure.
  - c. A map showing the location of all other local communications facility towers and other structures within the municipality as well as outside of the municipality within a five-mile radius. The applicant shall also identify the height and type of construction of all such structures.
  - d. The location and type of fencing, if applicable, and the type, location, color and power of any illumination.

- e. An assessment of the suitability of the use of existing towers or other structures within the search area to accommodate the local communications facility in lieu of a tower, if a tower is proposed.
- f. An assessment of the suitability of the site to accommodate additional equipment sheds, emergency back-up generators and similar needs of other wireless providers who may wish to collocate on the proposed facility.
- g. Written confirmation from any other wireless providers who have expressed a desire to collocate on the proposed facility that the selected site meets their operational needs and space requirements for equipment sheds and the like.
- h. Evidence that all notice procedures for Coastal Area Facility Review Act (CAFRA), N.J.S.A. 13:19-1 et seq. and/or the Waterfront Development Law, N.J.S.A. 12:5-3, as applicable, has been filed.
- i. Computer simulation models, photographic juxtaposition or a similar technique shall be submitted in support of the application to show how the facility will appear on site and will be used by the appropriate board in determining conformance with the visual impact standards of this section.
- j. Information required for all other standards of the Land Development Ordinance.
- k. In the event that the collocation is found not to be feasible, a written statement of the reasons for the unfeasibility shall be submitted to the City of Wildwood. The City of Wildwood may retain a technical expert in the field of RF Engineering to verify if collocation at the site is not feasible or is feasible given the design configuration most accommodating to the collocation, or that a new tower has less visual impact at an alternative site. The cost for such technical expert will be at the expense of the applicant.

## **508 ACCESSORY BUILDINGS AND STRUCTURES—GENERAL REGULATIONS**

### **A. Accessory Buildings as Part of Principal Buildings**

Any customary private accessory building attached to a principal building shall be considered part of the principal building and the total structure shall adhere to the

bulk requirements for the principal building regardless of the technique of connecting the principal and accessory buildings.

B. Accessory Buildings and Structures Not to be Constructed Prior to Principal Building

No construction permit shall be issued for the construction of an accessory building or structure, other than construction trailers or storage sheds, prior to the issuance of a construction permit for the construction of the main principal building upon the same premises. If construction of the principal building does not precede or coincide with the construction of the accessory building or structure, the Construction Official shall revoke the construction permit for the accessory building or structure until the construction of the main building has proceeded substantially toward completion.

C. Distance Between Adjacent Buildings and Structures

Subject to the bulk requirements in Section 400, as applicable herein.

D. Height of Accessory Building and Structures

Subject to the bulk requirements in Section 400, as applicable herein.

E. Location

An accessory building or structure may be erected in side and rear yard areas only and shall be set back from side and rear lot lines as prescribed in Chapter 400 of this Ordinance, except that if erected on a corner lot, the accessory building or structure shall be set back from the side street to comply with the setback line applying to the principal building for that side street.

F. Temporary Construction Trailers

Temporary construction trailers and one (1) sign not exceeding 32 s.f. advertising the principal contractor, subcontractor(s), architect, financing institution, or similar data shall be permitted for the period of construction beginning with the issuance of a Construction Permit and concluding with the issuance of a Certificate of Occupancy, provided said trailer(s) and sign are on the site where construction is taking place.

G. Storage Sheds

Sheds shall not be located to displace or eliminate required parking spaces nor create a nonconforming condition related to either building coverage or impervious surface coverage. Sheds are subject to the bulk requirements to each applicable zoning district in Chapter 400. No more than one (1) storage shed shall be

permitted per lot, regardless of the use. No shed shall be used for any purpose other than storage. Sheds shall be anchored as required by the Uniform Construction Code or any Floodplain Damage Prevention Ordinance.

## **509 SWIMMING POOLS**

### **A. Private Residential**

1. No private residential swimming pool shall be constructed or installed on any lot unless the lot contains a residential building.
2. Private Residential swimming pools shall be a permitted accessory use and shall be located only in rear yards and the rear 50% of a side yard. Swimming pools are prohibited in front yards.
3. Pools shall occupy no more 25% of the yard area(s) in which it is located or a maximum of 800 sq. ft. as measured along the surface of the water, whichever is smaller.
4. A pool itself and any apron, accessory building, structure and equipment shall all be located at least six (6) feet from all property lines or building. Pools adjacent to a bulkhead shall be located at least ten (10) feet from the bulkhead. Pools adjacent to bulkheads may require CAFRA review.
5. A private residential swimming pool area must be enclosed by a suitable fence with a positive, self-latching gate at least four feet (4'), but no more than six feet (6'); except that, in lieu of the prescribed fence, above-ground pools with vertical side walls four feet (4') or more in height may be equipped with a ladder or steps which can be repositioned or removed when the pool is not in active use.
6. A private residential pool may be lighted by both underwater and exterior lights, provided that all exterior lights are located so that the light is neither directed nor reflected upon adjacent properties. All light standards used for exterior lighting shall not exceed 12' in height.
7. No loudspeakers or amplifying devices which can be heard beyond the lot lines of the lot on which said facility is located shall be used in connection with such recreation facilities.
8. Shower enclosures, pool filters, and circulating pumps, and HVAC equipment may extend into the largest side yard setback, provided that a six (6) feet side yard setback is maintained and, that shower enclosures do not exceed a height



of eight (8) feet above TOC, and HVAC equipment and associated screening does not exceed a height of six (6) feet above TOC.

9. In-ground swimming pools and associated fencing, circulating pumps, heaters & filters are permitted as per the applicable requirements of this Ordinance.
10. Private residential swimming pools that conform to the requirements of this section shall not be included in any calculation for the total maximum foot of accessory structures as listed in the individual district regulation found in Chapter 400.
11. Single-Family Detached and Single Family Semi-Detached (Duplex) dwelling units are exempt from submitting a site plan for a private residential swimming pool that conforms to the requirements of this section.

#### B. Public and Commercial Pools

1. Public and commercial pools shall be located within an area not less than 1,000 sq. ft. that is devoted to the use of the pool and for such adjacent uses as lounge chairs, shuffle board or walking areas around the pool.
2. The water area of any public or commercial pool and/or separate swimming tank shall be no closer to any property line than the setback distances prescribed for accessory uses in the applicable zoning district as prescribed in this Ordinance or eight feet (8'), whichever is more stringent.
3. The varying depths of the pool shall be prominently marked in the pool as well as at the edge of the pool with wear resistant, legible paint.
4. The pool shall be lighted both internally and externally, but in no case shall any light be directed in a direct or indirect fashion upon any adjacent property. If any portion of the pool, part of the land devoted to the use of the pool, light standard(s) or loud speakers are located closer to any residential building or any property line than 15', adequate buffers of trees and shrubs, at suitable height to be effective, shall be provided to protect against light and sound.
5. The total land devoted to the use of the pool shall be enclosed with a fence no less than four feet (4') in height but no more than six feet (6'). The fence shall be equipped with a positive, self-latching gate which shall be locked to prevent intruders when the pool is closed. All public or commercial pools shall utilize safety covers when closed for the season to prevent accidental death, drowning and/or injury. Indoor pools confined within a building structure are exempt from this requirement.

6. Open roof-top pools shall have a fence no lower than seven (7) feet in height from the pool deck surrounding the roof perimeter and be constructed of a material that makes the fence un-climbable. Roof top pools shall have an intercom or telephone system with direct voice access to building management. A video or CATV system with a viewing terminal at the office of building management shall always be operable and focused on the pool when the roof top pool is open to the public and/or residents of the building structure.
7. No public or commercial pool shall be constructed or installed unless approved by the Board as part of a site plan approval. All pools shall be classified into types in accordance with their particular use and shall meet the appropriate design standards as set forth by the applicable construction code as adopted by the NJDCA, the National Swimming Pool Institute, or the Swimming Pool Code of New Jersey, 1970, whichever is more stringent.
8. Public or commercial pools shall be constructed or installed with the highest technology and efficiencies for energy savings or maximizes the use of environmentally-friendly LEED<sup>2</sup> building systems & technologies as well as the use of "Green" building practices for buildings and mechanical systems and shall use pool or solar covers to retain heat (if so equipped) when the pool is closed.
9. In-ground swimming pools and associated fencing, circulating pumps, heaters & filters are permitted as per the applicable requirements of this Ordinance.

#### **510 SATELLITE DISH/PARABOLIC OR DISH-TYPE ANTENNAE**

- A. No satellite dish/parabolic or dish-type antennae shall be erected, constructed, altered, or maintained on any lot without complying with terms of this section. All satellite dish/parabolic or dish-type antennae outside of the building shall meet the following requirements.
  1. A satellite dish antenna shall function only as a receiving station and not as a transmitting station. Both ground-level, free-standing, ground-mounted and roof/eave mounted satellite dish antennae shall be permitted. Roof/eave mounted antennae is encouraged. No antenna is permitted to be installed on the front façade of a building or structure when viewed from the street right-of-way or to any window sill of any principal structure. No antenna may be located in a front or side yard. Ground mounted satellite dish antenna may be installed only in the rear yard area of any lot, and the proposed location of a

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<sup>2</sup> "Leadership in Energy & Environmental Design"

satellite dish antenna shall not be located within five feet (5') of any property line. Ground mounted satellite dish antenna shall be located within an adequately fenced area or have other safety devices provided to protect inadvertent impacts to the antenna or pole as may be required.

2. A satellite dish antenna may not be placed on any lot which does not contain a permitted principal structure.
3. Owners of lots of record shall be responsible for any damage incurred by satellite dish antenna becoming detached by storm, wind, inclement weather and causing injury and/or damage to other persons, structures and/or property.
4. A satellite dish antenna shall not exceed ten feet (10') in diameter and shall be effectively screened with non-deciduous plantings at least four to five feet (4' - 5') in height, and, to the greatest extent possible, shall blend with the immediately surrounding area. Unless impracticable, all satellite dish antennae shall be of the latest technology at to size and shape.
5. The overall height from the point of installation to the highest point of the antennae, or any attachments thereto when extended to their full height, shall not exceed 12'. In no event shall the natural grade of the subject premises be changed by any means in order to increase the elevation of the satellite dish antennae.
6. No principal permitted structure shall have more than one satellite dish antennae. Structures above 35' in height shall be limited to one (1) antenna for all residents of the structure. Wires and cables running between the antenna and any structure shall be properly installed and concealed in accordance with the Uniform Construction Code.
7. Portable mounted satellite dishes are prohibited in all zones, except for demonstration purposes only. Said mobile unit shall not be permitted to remain on any property for more than 48 hours.
8. Satellite dish antennae shall be installed or constructed in a manner so as not to interfere with television, radio or similar reception in adjacent structures and nearby areas.
9. No form of advertising or identification shall be placed on the satellite dish antennae other than an imprinted logo or label of the manufacturer and/or installer, which label shall be no larger than 36 sq. in.

10. The City, along with representatives of North Wildwood has developed a set of Design Guidelines for the Wildwoods Boardwalk. Prepared under a Smart Growth Grant from the New Jersey Department of Community Affairs, Office of Smart Growth, this effort analyzed historic and current Boardwalk architecture and developed a set of architectural features to be encouraged for Boardwalk buildings and a companion set of features which should be discouraged.

When placing Satellite dish antennae along the Boardwalk area and within the BA Zoning District, extreme care and being attentive of the above referenced Design Guidelines is highly encouraged. The visibility of said Satellite dish antennae from the Boardwalk deck and its entrance ramps is expressly prohibited. Concealment of said antennae, with the Design Guidelines in mind, is recommended if no other placement can be found.

These Guidelines, on file with the City Clerk and the Boardwalk Special Improvement District Management Corporation, are adopted by the City of Wildwood, are applicable for any new development or rehabilitation of existing structures within the BA Zoning District.

No use or activity associated with Satellite dish antennae shall encroach onto the Boardwalk or obstruct the free flow of pedestrian circulation on the Boardwalk.

## **511 WINDMILLS and ENERGY CONSERVATION DEVICES**

Windmills, including those used for the production of electric current, energy conservation devices such as solar panels for heating, and communication installations, including television and/or radio towers & antennae and similar devices, may be installed, subject to the following conditions:

- A. Windmills shall be permitted in connection with any residential, business, recreational or industrial use when they meet the following standards:
  1. The proposed windmill will not block, interfere or otherwise impair a scenic vista or corridor or the view for an adjoining residential structure.
  2. The primary purpose of a proposed windmill(s) will be to provide power for the principal use of the property whereon said windmill(s) is to be located and shall not be for the generation of power for commercial purposes, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time from a windmill designed to meet the energy needs of the principal use.

3. The windmill and its location on the property involved shall be designed to eliminate any nuisances to surrounding properties and to limit any noise from said windmill from being heard off the property where said windmill is located. The actual side and rear yard setbacks for a windmill shall be determined by the Planning and/or Zoning Board as applicable, and shall be based upon the height of the proposed windmill.
  4. No variance shall be granted in connection with a proposed windmill to permit a height greater than 1.5 times the height of the principal use (i.e. maximum building height) allowed by the designated zoning district or the placement of a windmill so close to a property line as to result in any portion of the windmill at any time, whether erect or in the event the windmill should fall or be toppled, to overhang, cross or otherwise extend beyond the property line(s) and/or street right-of-way line.
  5. No windmill shall be located in any required front yard area.
  6. The minimum lot size required for the erection, construction or placement of a windmill on a property shall be the minimum lot size for the designated zoning district.
  7. Governmentally sponsored windmills may be installed in any zoning district, exclusive of any district bulk requirement, as authorized by City Commission.
- B. Energy conservation devices such solar heating panels and private communications equipment, such as television or radio towers and similar devices, shall be permitted in accordance with the following conditions:
1. No energy conservation or communications equipment shall be located in any required front yard area to the extent practical given the need for solar access in the case of energy conservation equipment.
  2. Energy conservation or communications equipment shall not be attached to the front facade or roof area of any structure or building wherever practical given the requirements for said equipment such as solar access or radio reception.
  3. When any antennae is located within 20' of adjoining property, it shall be screened with plant material to the extent practical to reduce unsightly appearance without affecting performance.

4. No communication equipment shall be permitted which causes interferences or problems for adjoining properties communication equipment or reception of television, radio or other communication signals.
5. Wherever practical and possible, energy conservation and communication equipment shall be so located on a property so as not to be visible from the street.
6. Construction and erection of such equipment shall be subject to the Uniform Construction Code and shall at no time constitute a threat to public safety, health or welfare.

**512 PORTABLE STORAGE CONTAINERS (SHIPPING CONTAINERS, PODS, TRAILERS, etc.)**

A. Portable storage containers shall be permitted subject to the following conditions:

- 1 No portable storage container shall be placed on a lot for longer than 30 days.
- 2 Portable storage containers shall be placed a minimum distance of 4 feet from any property line or principal structure.
- 3 No portable storage container shall be larger than 200 s.f. in area.
- 4 No portable storage container shall be larger than 10 feet in height.
- 5 Portable storage containers are to be placed on a driveway, parking spaces, or elsewhere on a property that is easily accessible. Portable storage containers shall not obstruct the right-of-way, sidewalk, or other drive aisle on a lot.
- 6 Portable storage containers shall be located only on the lot where such container is being utilized. No off-site locating of a portable storage container is permitted.
- 7 The Zoning Official, Construction Official, or Code Enforcement Officer of the City of Wildwood may order the relocation of any portable storage container that does not meet the requirements of this section.

**513 SALE OF ALCOHOLIC BEVERAGES**

Notwithstanding any other provision of this Ordinance, the City Commissioners may permit the sale of alcoholic beverages in any zoning district on a one-day permit basis.

#### **514 SMALL CELL TELECOMMUNICATIONS FACILITIES**

- A. No small cell telecommunications facility or antennae shall be erected, constructed, altered, or maintained on any lot without complying with terms of this section. All small cell telecommunications facilities or antennae outside of the building shall meet the following requirements. Small cell telecommunications facilities are deemed to be a permitted use in all zones, subject to site location approval from the City of Wildwood as set forth herein.
1. An antenna may be installed on streetlight or mast arms mounted on pre-existing poles, including utility and street light poles or other pre-existing exterior Support Structures. Overall, an antenna may be installed at least twenty (20) feet from the ground in a residential zone or on an existing residential Support Structure or Support Structure on privately owned land, or fifteen (15) feet from the ground in a commercial zone or on an existing commercial structure or support structure on privately owned land. An antenna may be mounted on the wall of a building facing the rear lot line at a height of at least twenty (20) feet in a residential zone or when mounted on a residential building, or fifteen (15) feet in a commercial zone or when mounted to a commercial building.
  2. An antenna must not be installed on the front, street-facing façade of any structure.
  3. Cable connecting the antennae to the equipment box shall be contained inside the pole or Support Structure or shall be flush mounted and covered with a metal, plastic or similar material cap matching the color of the pole or structure on which it is installed, properly secured and maintained by the applicant.
  4. Related unstaffed equipment cabinets may be located within a building, an equipment cabinet outside a building, an equipment cabinet on a rooftop, or an equipment room within a building.
    - a. Such related equipment shall have a maximum square footage of ten (10) square feet with a maximum height of two (2) feet, and must be so located and installed in accordance with the applicable setback and other requirements of the zone in which the property is classified.
    - b. A related unstaffed equipment cabinet may be installed on a rooftop of a building on privately owned land which is at least fifteen (15) feet in

height, provided it and all other roof structures do not occupy more than twenty-five (25) percent of the roof area.

5. The applicant shall provide proof that it is a licensed provider and will comply with all applicable federal, state and city laws and regulations, including those regarding wireless communications services.
6. Public property.
  - a. A private small cell telecommunications antenna may be located on the exterior of public property or attached to an existing Support Structure owned or operated by the City of Wildwood and shall be a permitted use in all zones. The use of any property owned or operated by the city shall be at the discretion of the City Commission and shall not be subject to the same conditions and requirements as are applicable to such facilities on privately owned property. The City Commissioners may, but are not required, to hold a public hearing prior to its decision to allow the use of property owned or under the control of the City.
  - b. A private small cell telecommunications antenna may be located on the exterior of public property or attached to an existing Support Structure owned or operated by a county, state, federal or other non-city governmental agency or on the property of an independent fire department or rescue squad subject to the same conditions and requirements as are applicable to such facilities on privately owned property.
7. All such small cell telecommunications antennas shall be located and designed so as to minimize visual impact on surrounding properties and from public streets.
8. No signs are permitted in connection with any small cell telecommunications antenna.
9. No lights are permitted on any monopole or antenna unless required by the federal communications commission, the federal aviation administration, or the City.
10. No more than one building, pole or other Support Structure containing a small cell telecommunications facility or co-located facility is permitted on a lot or parcel of land. A special exception to permit the location of more than one building, pole or other structure containing small cell telecommunications facilities on a lot or parcel of land may only be approved if the applicant establishes that existing small cell telecommunications facilities serving the



same service area have no additional capacity to include the applicant's facility. Any such application must comply with all of the other standards and requirements for small cell telecommunications facilities.

11. Every small cell telecommunications facility must be removed at the cost of owner when it is no longer in use or when it has not been operated for a continuous period of six (6) months. Such a facility must be removed within 90 days after receiving a removal notice from the City.
12. The installation or modification of any small cell telecommunications facility or antennae in any zone shall require approval by Zoning and Code Administration staff and payment of the required fee.
  - a. Prior to approval of an installation or minor modification permit for telecommunications facilities, the applicant shall specify whether the application is subject to any Federal Communications Commission application requirements, and if so identify whether it must be reviewed under regulations implementing § 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, § 332(c)(7) of the Telecommunications Act of 1996, or other applicable federal laws or regulations.
  - b. Prior to approval of an installation or minor modification permit for telecommunications facilities, the application must (i) demonstrate that the proposed development meets the requirements of this section; (ii) provide a safety report demonstrating that the structure can safely accept installation of the additional telecommunications facilities; (iii) provide proof that it is a licensed provider and will comply with all federal, state, and City laws and regulations, including those relative to wireless services; (iv) provide any other relevant information required by the City, and (v) if the installation is within or crosses a right of way, demonstrate compliance with all applicable right of way permit requirements, including any prior right of way agreements.
  - c. The size, location and appearance of the small cell telecommunications equipment or minor modification will be subject to Planning and Code Administration staff review and approval. Where Planning and Code Administration staff conclude a proposed installation does not constitute a minor modification or does not meet other applicable requirements, City staff may deny approval or refer it to the Board of Adjustment for further review and a final decision.

Where due to special conditions, a literal enforcement of the provisions of this Chapter will result in unnecessary hardship or be detrimental to the stated goals and objectives of the City of Wildwood's development policy as expressed in the City's 2007 Comprehensive Master Plan Update, the Planning and/or Zoning Board may be resolution, grant such waiver from or adjustment in accordance with Section 1002.

#### **516 SEVERABILITY**

If the provisions of any section, subsection, paragraph, subdivision, or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this Ordinance.