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ORDINANCE NO. 97- 14

**AN ORDINANCE TO AMEND ZONING CODE  
OF THE BOROUGH OF HILLSDALE  
TO PERMIT TOWERS FOR COMMUNICATIONS  
ANTENNAS ONLY ON MUNICIPAL OWNED PROPERTY**

**WHEREAS**, this ordinance amendment is designed to create the opportunity to locate communication facilities in areas in which, in the opinion of the Borough, will have no appreciable adverse impact on the character of the community, nor will it encroach on the reasonable expectations of the residents of the Borough and their homes and personal safety remain protected. The intent of this ordinance is to limit the location of such facilities to areas which are both acceptable in communication companies wishing to provide service and consistent with the above objectives. The overriding objective of this provision is to establish general guidelines for the siting of wireless communication towers and antennas, to insure that the public health, safety and welfare is safeguarded and that the following purposes of the MLUL re advanced (See NJSA 40:55D-2).

- b. To secure safety from fire, flood, panic and other natural and manmade disasters.
- f. To encourage the appropriate and efficient expenditure of public funds by the consolidation and use of facilities which will enhance land use policies by minimizing duplication of communication and data transmission hardware.
- g. To provide sufficient space to appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environment requirements in order to meet the needs of all New Jersey Citizens.
- i. To promote a desirable visual environment through creative development techniques and good civic design and arrangements.
- j. To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land.
- m. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land.

**IN FURTHERANCE OF THESE GOALS**, the Borough of Hillsdale shall give consideration to the Borough of Hillsdale's Master Plan, zoning map, existing land uses, and

environmentally sensitive area in approving sites for the location of towers and antennas.

**BE IT ORDAINED** by the Mayor and Council of the Borough of Hillsdale, County of Bergen, State of New Jersey, that the Zoning Code of the Borough of Hillsdale be amended as follows to include the following new sections:

Section 1. The Zoning Code of the Borough of Hillsdale is hereby amended to include the following:

A. Definitions As used in this ordinance, the following terms shall have the meanings set forth below:

“Alternative tower structure” means structures that camouflage or conceal the presence of antennas or towers.

2. “Antenna” means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
3. “Backhaul network” means the lines that connect a provider’s towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
4. “FAA” means the Federal Aviation Administration.
5. “FCC” means the Federal Communications Commission.
6. “Height” means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.
7. “Preexisting towers and preexisting antennas” means any towers or antennae for which a building permit or special use permits have been properly issued prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.
8. “Tower” means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

B. Applicability.

New Towers and Antennas. All new towers or antennas in the Borough of Hillsdale shall be subject to these regulations, except as provided in Sections B(b) through (d), inclusive

2. Amateur Radio Station Operators/Receive Only Antennas. This ordinance shall not govern any tower, or the installation of any antenna that is under seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.

3. Preexisting Towers or Antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this ordinance, other than the requirements of Sections C(f) and C(g).
4. AM Array. For purposes of implementing this ordinance, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

C. General Requirements.

1. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
2. 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 other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
3. Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the Zoning Officer an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Borough of Hillsdale or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Zoning Officer may share such information with other applicants applying for administrative approvals or special use permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the Borough of Hillsdale, provided, however, that the Zoning Officer is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
4. Aesthetics. Towers and antennas shall meet the following requirements:
  - (1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
  - (2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend towers and related structure into the natural setting and surrounding buildings.
  - (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
5. Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

6. State or Federal Requirements. 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 ordinance 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. 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.
7. Building Codes: Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Borough of Hillsdale concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
8. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Borough of Hillsdale irrespective of municipal and county jurisdictional boundaries.
9. Not Essential Services. Towers and antennas shall be regulated and permitted pursuant to this ordinance and shall not be regulated or permitted as essential services, public utilities, or private utilities.
10. Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Borough of Hillsdale have been obtained and shall file a copy of all required franchises with the Zoning Officer.
11. Signs. No signs shall be allowed on an antenna or tower.
12. Multiple Antenna/Tower Plan. The Borough of Hillsdale encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites.

D. Permitted Uses.

1. General. The uses listed in this Section are deemed to be permitted uses and shall not require administrative approval or a conditional use permit.
2. Permitted Uses. The following uses are specifically permitted:

Antennas, towers, or alternate tower structure located on property owned, leased, or otherwise controlled by the Borough of Hillsdale provided a license or lease authorizing such antenna or tower has been approved by the Borough of Hillsdale.

E. Area, Bulk and Yard Requirements:

1. Minimum front yard setback - 50 feet or the height of the structure, whichever is greater.
2. Minimum rear yard setback - 50 feet or the height of the structure, whichever is greater.
3. Minimum side yard setback - 5 feet.
4. Maximum height of tower - 130 feet.
5. Maximum height of associated structures - 8 feet.
6. Maximum square footage of associated structures - 150 square feet.

F. Additional Requirements

1. All facilities shall be suitably secured and enclosed in a fence of not less than 6 feet high.
2. Site plan approval by the Hillsdale Planning Board shall be required and the following information shall be provided:
  - a. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning within 200' (including when adjacent to other municipalities), Master Plan classification of the site and all properties within the applicable separation distances set forth in Section E, adjacent roads, proposed means of access, setbacks from property lines, elevation drawings of the proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking and other information deemed by the Zoning Officer to be necessary to assess compliance with this ordinance.
  - b. Legal description of the parent tract and leased parcel (if applicable).
  - c. The setback distance between the proposed tower and the nearest residential unit or residentially zoned properties, whether platted or unplatted.
  - d. The separation distance from other towers shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
  - e. A landscape plan showing specific landscape materials.
  - f. Method of fencing, finished color, if applicable, and methods of camouflage and illumination.
  - g. A description of compliance with this Section and all applicable federal, state or local laws.
  - h. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.

1. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.

A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

- k. A description of the feasible location(s) of future towers or antennas within the Borough of Hillsdale based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
3. In the event a communication tower is abandoned or not operated for a period of one year, the same shall be removed, at the option of the Borough, at the sole expense of the operator.
  4. Noise levels generated by the operation of the antenna operation at any property line shall be not more than 50 decibels.
  5. Site lighting used to illuminate tower shall be oriented inward toward the tower to minimize spillage and glare onto adjacent properties.
  6. The tower and antennae shall be designed in accordance with the current edition of the Building Officials and Code Administrators National Building Code.
  7. Any generator located on the site shall be within an equipment structure. All fuel shall be contained in accordance with NJDEP requirements.
  8. Site clearing shall be minimized to preclude the removal of vegetation beyond that necessary to install and maintain the facility.
  9. Communication towers shall not cause a disruption to, or interfere with other radio, communications, or television transmissions or equipment. If such disruption or interference is found to be caused by the operation of the communication tower, the subscribers and/or leasees shall modify their equipment operations to abate the deficiencies.

G. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Board that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Board related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- (i) No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
- (ii) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- (iii) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

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

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

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

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

Section 2. All other portions of the Zoning Code of the Borough of Hillsdale shall remain in full force and effect.

Section 3. This Ordinance shall take effect immediately upon passage and publication as provided by law.

APPROVED: July 2, 1997

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Timothy P. O'Reilly, Mayor

ATTEST:

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Robert P. Sandt, RMC  
Borough Clerk