

ORDINANCE NO. 14-02

ORDINANCE AMENDING CHAPTER 137 OF THE CODE OF
TOWNSHIP OF JEFFERSON, ENTITLED " ZONING"
AND SPECIFICALLY CREATING CHAPTER 137-31A ENTITLED
"TELECOMMUNICATIONS ANTENNAE AND TOWERS"

WHEREAS, Telecommunication Towers are beginning to proliferate the area within and surrounding Jefferson Township; and

WHEREAS, the Township of Jefferson finds it is necessary to set forth requirements and guidelines for the construction of Telecommunications Towers; and

WHEREAS, the Township has adopted a policy that it favors co-location of telecommunications antennae, so that the least amount of towers are constructed within the Township.

NOW, THEREFORE, BE IT ORDAINED, as follows:

SECTION I

That the Township Council of the Township of Jefferson, Morris County, New Jersey, hereby establishes in the Jefferson Township Municipal Code, under Chapter 137 entitled ~~Zoning~~, Section 137-31A entitled "Telecommunications Antennae and Towers" as follows:

- A. Telecommunications Antennae and Towers Permitted in Certain Zones:

1. There is hereby permitted to be erected in any industrial or commercial zone district of the Township a telecommunication tower or antenna on any conforming lot provided, however, that such tower or antenna shall be set back from the boundary of any existing off site residential lot, including a lot zoned for residential use and/or having located on an existing residence, a distance at least equal to 125% of the height of the tower.

In addition, in any industrial or commercial zone of the Township there shall be permitted an antenna to be erected on any existing structure other than a tower (such as a building, sign, light pole, water tower or other free standing, non-residential structure) that is fifty (50') feet in height or greater, so long as said antenna protrudes no more than twenty (20') feet from the height of said existing structure provided that said antennae meets the 125% set back requirement as set forth in this paragraph and the overall height requirement of 120 feet as set forth in Paragraph 2.

2. There shall be permitted in any zone of the Township the installation of an antenna on any existing tower of any height, so long as the addition of said antenna adds no more than twenty (20') feet to the height of said existing tower, and provided,

that such installation shall not include the placement of additional buildings or other supporting equipment used in connection with said antenna, and further, providing that the total height of the tower does not exceed 120 feet.

B. Franchise Proof Required:

Owners and/or operators of towers or antennae shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Township have been obtained and shall file a copy of all required franchises with the Clerk of the Township of Jefferson who shall distribute copies of same to the Township Construction Official and Township Planning Department. In addition, on or before February 1 in each subsequent year after construction the owners and/or operators of the towers or antenna shall provide a certification that the franchise as required by law for the operation of said wireless communication systems remain in full force and effect.

C. Site Plan Approval:

1. Any installation of an antenna or tower shall require site plan approval pursuant to Chapter 137-28 of the Township Code. In addition to the information required in said section,

applicants for site plan approval for a tower or antenna shall submit the following:

(a) The distance between the proposed tower and the nearest residential unit.

(b) A statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennae for future years.

(c) Line of sight analysis detailing the view of the proposed tower from various directions and angles from adjacent residential areas. The analysis shall be utilized to determine buffer requirements.

2. In addition to any standards for consideration of site plan approval applications pursuant to Section 137-28 of the Township Land Use and Zoning Ordinance, the appropriate Township board shall consider the following factors in determining whether to issue site plan approval or conditions for approval:

- (a) Height of the proposed tower;
- (b) Proximity of the tower to residential structures and residential district boundaries;
- (c) Nature of uses on adjacent and nearby properties;

- (d) Surrounding topography;
- (e) Surrounding tree coverage and foliage;
- (f) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (g) Proposed ingress and egress; and

D. Exemptions for Property Owned, Controlled or Leased by the Township:

All applications for antennae or towers to be placed on property owned, controlled or leased by the Township are exempt from Planning Board or Board of Adjustment review but are subject to review and approval by the Township governing body which may require a license or lease for such antenna and/or tower.

E. Availability of Suitable Existing Towers or Other Structures:

No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the appropriate Township board, and said board makes specific and separate written findings thereon, that no existing tower or structure can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the appropriate Township 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:

- (a) No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
- (b) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- (c) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- (d) 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.
- (e) 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.

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

F. **Maximum Tower Height:**

The maximum height of any tower shall not exceed one hundred twenty (120) feet. For purposes of measurement, the maximum tower height shall include any structures supporting the tower and any antenna.

G. **Design Standards:**

Applicants shall satisfy the design standards enumerated below to obtain site plan approval for towers in addition to other standards that may be required pursuant to the Township Zoning Ordinance, Construction Code and/or other applicable regulations:

- (1) **Security Fencing.** Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the appropriate Township board may waive such requirements, as it deems appropriate.

(2) Landscaping. The following requirements shall govern the landscaping surrounding towers for which site plan approval is required; provided, however, that the appropriate Township board may waive such requirements if the goals of this ordinance would be better served thereby.

(a) Tower facilities shall be landscaped with a buffer

of plant materials that effectively screens the view of the tower compound from all surrounding properties.

(b) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.

(c) Existing mature tree growth and natural land forms

on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

(3) The equipment cabinet or structure used in association with antennae shall comply with the following:

- (a) The cabinet or structure shall not contain more than 200 square feet of gross floor area or be more than 12 feet in height. In addition, for buildings and structures which are less than sixty-five (65) feet in height, the related unmanned equipment structure shall not be located on the roof of the structure.
- (b) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 10 percent of the roof area.
- (c) If the equipment structure is located on the roof of a building, it shall be appropriately screened.
- (d) The equipment cabinet or structure shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet.

(4) **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 facilities to the natural setting and surrounding buildings.

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 appropriate Township body may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

(6) **Signs:** No signs or other nonessential accouterments shall be allowed on any antenna or tower with the exception of warning signs or other signs required by Federal, State or local law.

H. Consulting Fee for Township Employees:

The Township reserves the right to apply a fee for any consulting services performed by any Township employees that may be utilized to assist any telecommunication provider and its affiliates in locating an existing tower's location within the municipality, which fee shall be based upon the times spent.

I. Abandonment of Tower:

If any tower and/or antennae ceases to be used, the telecommunications company shall notify the Township and the company shall remove the antennae within sixty (60) days from the date that it ceases to being used and if there are no other antenna on the tower, the tower shall be removed within twelve (12) months from the date that it ceases to be used. In the event that any tower or antennae ceases to be used for a period of twelve (12) months, the same shall be considered to be abandoned and the owner shall be responsible for its removal within sixty (60) days from the date that the Township that has determined that the tower or antennae has been abandoned.

SECTION II

1. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistencies.

SECTION III

1. If any article, section, subsection, paragraph, phrase or sentence is, for any reason, held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed severable.

SECTION IV

1. This Ordinance shall take effect immediately upon final publication as provided by law.

ATTEST:

**COUNCIL OF THE TOWNSHIP
OF JEFFERSON**

LYDIA MAGNOTTI, CLERK

RICHARD YOCUM, PRESIDENT

Dated: April 3, 2002

Adopted: May 15, 2002