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## TOWNSHIP OF EVESHAM

### ORDINANCE 5-3-2000

#### AMENDING THE LAND DEVELOPMENT ORDINANCE TO REVISE ESTABLISHED GUIDELINES FOR THE PLACEMENT OF TELECOMMUNICATION TOWERS AND ANTENNAS

WHEREAS, the Township Council of the Township of Evesham deems it in the best interests of its residents to revise established general guidelines for the placement of wireless communication towers and antennas to accommodate the communication needs of its residents and businesses while protecting the public health, safety and general welfare of the Township; and

WHEREAS, the Pinelands Commission approved Ordinance 32-98, which created guidelines for the placement of telecommunication towers and antennas within the Township of Evesham, and in doing so, the Pinelands Commission requested the Township make certain minor revisions.

BE IT ORDAINED by the Township Council of the Township of Evesham in the County of Burlington and State of New Jersey, as follows:

**SECTION ONE:** Chapter 160 (Zoning) of the Land Development Ordinance shall be amended and supplemented as follows:

§160-5., B. Word Usage; definitions. Add the following definitions:

**ALTERNATIVE TOWER STRUCTURE** - mounting structures that camouflage or conceal the presence of antennas or towers.

**BACKHAUL NETWORK** - the lines than 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.

**CO-LOCATION** - the attachment of commercial wireless telecommunication antenna to an existing tower.

**COMMERCIAL WIRELESS TELECOMMUNICATIONS SERVICES** - Licensed commercial wireless telecommunication services including cellular, personal communication services, specialized mobilized radio, enhanced specialized mobilized radio, paging, and similar services that are marketed to the general public.

**FAA** - Federal Aviation Administration.

**FCC** - Federal Communications Commission.

**PREEXISTING TOWERS AND ANTENNAS** - Any tower or antenna for which a building permit has 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.

**STRUCTURE** – The term “Structure” or “Structures” as used in this Section shall not have the meaning provided in Section 160(b)(5). “Structure” or “Structures”, for the purposes of this Section are defined as “A pre-existing tower, including water towers, and any other facility or building at least three (3) stories in height that can be used for the co-location of towers and/or antenna(s) without significantly altering the visual appearance of the facility or building.”

**TELECOMMUNICATIONS ANTENNA** - Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, satellite dishes and omni-directional antennas.

**TOWER** - Any ground or roof mounted pole, spire, structure, or combination thereof that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communications purposes, including supporting lines, cables, wires, braces, and masts. The term includes radio and television transmission towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

**TOWER, MULTI-USER** - A tower to which is attached the antennas of more than one commercial wireless telecommunication service provider or governmental entity.

**TOWER, SINGLE-USER** - A tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate the antennas of multiple users as required by Code.

**§160-5., B. Word Usage; definitions. Add the following to the definition of Height:**

**HEIGHT** -... When referring to a tower, the height shall mean 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. For towers in the Pinelands, the ground elevation used in determining height shall be the current grade of the tower location.

**§160-37.1. Telecommunications towers and antennas.**

a. Purpose

The purpose of this ordinance is to establish general guidelines for the

placement of wireless communication towers and antennas to accommodate the communication needs of residents and business while protecting the public health, safety, and general welfare of the community. The goals of this ordinance are to:

1. protect residential areas and land uses from potential adverse impacts of the siting of towers and antennas;
2. facilitate the provision of wireless telecommunication services to the residents and businesses of the Township;
3. require the location of towers in non-residential areas;
4. minimize the total number of towers throughout the community;
5. minimize adverse visual effects of towers through careful design and siting standards;
6. require the joint use of new and existing tower sites (including electric power towers) or predesignated tower properties as sites for new towers or existing buildings or structures as a primary option rather than construction of additional single use towers;
7. require that such towers are properly constructed, maintained and dismantled and that appropriate security is posted to ensure same, and the safety of Township residents.

In furtherance of these goals, Evesham Township shall give due consideration to the Evesham Township master plan, zoning map, existing land uses, inventory map of existing towers and structures and environmentally sensitive areas in approving sites for the location of towers and antennas.

b. **Applicability**

1. **Existing Structures.** When planning to serve an area or to expand services in an area, providers shall utilize existing towers and structures prior to considering new sites, unless the Board finds that it is infeasible to do so.

2. **Preexisting towers and antennas.** Preexisting towers or antennas shall not be required to meet the requirements of this ordinance, provided that requirements of section c.2 and c.3 are met, unless they are altered or additional equipment is added to same. When new masts, antennas, or other structures are added to a preexisting tower or antenna, the height of the addition shall not exceed the preexisting height by more than twenty (20) feet and the location and setback requirements of this chapter shall not apply.

3. **New towers and antennas.** New telecommunication tower or antenna sites shall be permitted by right in the Industrial Park (IP) Districts, and Block 48, Lots 19.01 and 33.02 and Block 50, Lots 18, 19, 20.01 and 21 of the Conservation Park (CP) Districts. New telecommunications antenna shall be permitted on structures three (3) stories or more in height and located in non-residential zones, provided that the antenna does not extend more than ten (10) feet above the roof.

4. **Pinelands Sites.** The development of towers in the Pinelands Protection Area must be designed in accordance with Pinelands Comprehensive Management Plan.

c. **General Requirements**

1 **Co-Location; Additional Users**

a. Each applicant for a new telecommunication tower shall prove that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building or other structure (e.g. water towers) within a five (5) mile search radius of the proposed tower.

b. Any proposed commercial wireless telecommunication service tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

2. **State or Federal Requirements.** All towers must meet or exceed current standards and regulations of the FAA, the FCC and 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 not mandated by the controlling state or federal agency, in which case 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.

3. **Safety Standards/Building Codes.** 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 property maintenance codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended. If, upon inspection, Evesham Township 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.

4. **Tower Setbacks.** New towers shall conform with each of the following minimum setback requirements:

(a) Towers shall meet the setbacks of the underlying zoning district with the exception of the IP and CP zoning districts, where towers may encroach into the side and rear setback area, provided that the rear property line abuts another industrially zoned property and the tower does not encroach upon any easements.

(b) Towers shall be set back from the planned public rights of way as shown on the most recently adopted Circulation Plan of the Evesham Township Master Plan by a minimum distance equal to one and one-half times the height of the tower including all antennas and attachments, or a two hundred foot minimum set back, whichever is more.

(c) Towers located in non-residential districts adjacent to residential districts shall be set back from all residentially developed lots by a minimum distance equal to one and one-half times the height of the tower including all antennas and attachments, or a two hundred foot minimum set back, whichever is more.

(d) Towers shall not be located between a principal structure and a public street. An improved driveway shall be provided for access to each tower site from the nearest open public street.

(e) A tower's setback may be reduced or its location in relation to the public street varied, at the sole discretion of the Board, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device, or similar structure.

(f) Towers shall meet all buffer and landscaping requirements of the underlying zoning district.

(g) Telecommunications towers or antennas shall not be located on any dwelling.

5. **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.

6. **Landscaping.** New towers and accessory buildings shall be landscaped at the base in conformance with Township standards.

7. **Abandoned Towers.** All abandoned or unused towers and associated facilities shall be removed by the applicant or its successors, and the tower and any impacted property returned to its original state, within 6 months of the cessation of operations at the site, unless a time extension is approved by the Board.

d. **Additional Submission Requirements.** Each submission and/or application for an antenna and/or tower shall include:

1. **Inventory of existing sites.** For each application, for an antenna and/or tower, the applicant shall provide to the Board an inventory of all its existing towers, antennas, sites approved for towers or antennas, and plans for future antennas and towers that are within Evesham Township and within five (5) miles of the border thereof, including specific information about the location, height, and design of each tower.

2. **Report.** A report from a qualified and licensed engineer includes the following:

a. description of tower height and design including cross section and elevation;

b. description of the need for such a tower in the desired location, in the case of a new tower; or, if use of a pre-existing tower is proposed, the need for such an additional antenna.

c. indicates the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;

d. description of the tower's capacity, including the number and type of antennas that it can accommodate;

e. indicates what steps the applicant will take to interference with established public safety telecommunications;

3. **Letter of Intent.** A letter of intent committing the tower owner or lessee and its successors to allow the shared use of the tower if an additional user(s) agrees in writing to meet reasonable terms and conditions for shared use, and that the tower owner or lessee acknowledges and agrees that its successors and/or additional users shall be bound and will conform to the requirements of this Ordinance as applicable.

4. **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 at the site shall be submitted at the time of application.

5. **Insurance.** In the event a tower is sited on Township-owned property, the lease between the Township and the tower owner (and its successors) shall provide a Certificate of Insurance, providing coverage of at least one (1) million dollars per occurrence, including, but not limited to, premises and general liability, naming the Township of Evesham as an additional insured.

6. **Hold Harmless.** In the event a tower is sited on Township-owned property, the lease between the Township and the tower owner and its successors shall indemnify and hold harmless the Township of Evesham, its officers, employees, agents and servants from and against any and all claims, demands, suits, actions, recoveries, judgments, costs and expenses, including attorneys' fees, incurred or suffered on account of property damage or loss and/or personal injury, including loss of life, of any person, agency, corporation or governmental entity which shall arise out of the course of or in consequence to any acts or omissions of the Township of Evesham, its employees, agents or servants, in the performance of the work or the failure of the Township of Evesham, its employees, agents or servants. This obligation shall not apply in the case of gross negligence or willful malfeasance.

7. **Bond Requirement.** In the event a tower is sited on Township-owned property, the lease between the Township and the applicant shall be required to post a performance and maintenance bond in a sufficient amount to be determined by the Board Engineer to ensure the proper construction and maintenance of the tower.

8. **Site Plan Conformance.** In addition to the foregoing, all applications shall meet the applicable requirements of the Evesham Township Land Use Code, unless preempted by controlling state or federal law.

e. **Design Requirements**

Telecommunication towers shall be of a monopole design unless the Board determines that an alternative design would better blend into the surrounding environment or, for Pinelands sites only, unless the applicant demonstrates that it is technically infeasible to provide a monopole and reach a height of 200 feet.

1. **Aesthetics.** Applicants shall minimize the adverse visual impact and the number of such facilities through proper design, siting, screening, material, color and finish for towers, antennas, and accessory buildings. Whenever possible, competing providers shall co-locate antennas and related facilities. At locations where co-location on an existing structure is impractical, the

applicant shall use camouflage structures, such as artificial trees, subject to applicable FAA standards and design review by the Board. Where the required height of the tower makes an artificial tree impractical, other camouflage techniques shall be considered. Artificial trees shall be designed to resemble a woody tree with a single trunk and branches on its upper part. They shall be located near existing tree masses to the extent practical.

2. **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 by suitable vegetation, except where a design of nonvegetative screening better reflects and complements the architectural character of the surrounding neighborhood. A landscape plan shall be submitted for review of proposed screening.

3. **Security.** All towers and accessory structures shall be required to provide fencing, landscaping and/or such other barriers as the Board may require, such that the tower and accessory structures are secured and inaccessible to private residents and children. For purposes of this chapter, any and all towers shall be deemed an attractive nuisance where adequate security is not provided as requested herein pursuant to N.J.S.A 2C:33-12.

4. **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.

5. **Height.** The antenna and any supporting structure shall not exceed 200 feet in height and in areas controlled by the Pinelands Commission, if a lesser height is proposed, the tower shall be designed so that its height can be increased to 200 feet if necessary to accommodate other local communications facilities in the future.

6. **Lot Coverage.** Not more than ten percent (10%) of a lot may be devoted to towers, antennas and accessory structures.

7. **Signs and Advertising.** The use of any portion of a tower for signs or any form of advertising other than warning or equipment information signs (only legible by persons maintaining the facility) is prohibited.

f. Variances

Any individual or entity proposing to construct a telecommunications tower in the Township may seek a variance for relief from the requirements of this Section from the Evesham Township Zoning Board of Adjustments.

**Section Two:** All ordinances or parts of ordinances inconsistent with this ordinance are hereby



repealed to the extent of such inconsistency only.

**Section Three:** This Ordinance shall take effect upon final passage and publication according to law and upon filing with the Burlington County Planning Board and otherwise complying with the Municipal Land Use Law.

Passed on second reading 3/21/00

adopted on second and final reading on

March 21, 2000

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*Augusto Clemente*  
Mayor  
*Carmela Borfrisco*, Deputy