

LOCAL LAW NO. 7 OF THE YEAR 2019

**A LOCAL LAW AMENDING CHAPTER 101 OF THE TOWN CODE ENTITLED:
“TELECOMMUNICATIONS TOWERS AND FACILITIES” AND THE TOWN OF
HYDE PARK TOWN CODE SCHEDULE OF USE REGULATIONS**

BE IT ENACTED by the Town Board of the Town of Hyde Park as follows:

SECTION 1. LEGISLATIVE INTENT.

The Town Board and its consultants have determined that there are certain inconsistencies in Chapter 101 of the Town Code entitled: “Telecommunications Towers and Facilities”. Most notably, the chapter vests the Zoning Board of Appeals with the power and authority to issue special use permits for such facilities. The Town Board and its consultants have determined that such power and authority should be vested in the Hyde Park Planning Board. There are other provisions in the law which require amendments as suggested by the Planning Board, Zoning Board of Appeals, and Town Zoning Administrator. It is the intent of this Local Law to enact such amendments and corrections to Chapter 101 and to the Schedule of Use Regulations of the Town of Hyde Park Zoning Law.

**SECTION 2. AMENDMENTS TO TOWN OF HYDE PARK
SCHEDULE OF USE REGULATIONS.**

The Town of Hyde Park Schedule of Use Regulations, Attachment 1, Chapter 108 Zoning of the Town Code is hereby amended to add a new category of non-residential use entitled: “Telecommunications Towers and Facilities”. The Schedule of Use Regulations is further amended to provide that telecommunications towers and facilities are a use subject to issuance of a special use permit and Site Plan Approval by the Planning Board in the Greenbelt, Waterfront, Neighborhood, Neighborhood Core, Hamlet, Hamlet Core, Crossroads Core, Landing, East Park Business, Neighborhood Business, and the Town Center Historic Districts.

**SECTION 3. CHAPTER 101 OF THE TOWN OF HYDE PARK
CODE IS HEREBY AMENDED AS FOLLOWS:**

- A. §101-2 Definitions is hereby amended to delete the definition of “Approving Board” and to substitute in its place the new definition of “Approving Board” as follows:

“APPROVING BOARD

The Planning Board shall be the approving Board for the Special Use Permit and Site Plan Approval of all telecommunications towers and facilities.”

B. §101-3, Permit Regulations, subsection B Location or collocation, subsection (1) is hereby deleted and in its place, a new subsection (1) shall be added to read as follows:

(1) “The location or collocation of communications equipment on an approved telecommunications tower or tall structure is a permitted use subject to the issuance of Site Plan Approval by the Planning Board subject to the Planning Board’s determination that the location or collocation does not.”

C. §101-3 Permit Regulations, subsection B Location or collocation, subsection (2) is hereby deleted in its entirety.

D. §101-3 Subsection C is hereby deleted and a new Subsection C is hereby enacted to read as follows:

“C

New telecommunications tower construction is subject to obtaining a Special Use Permit and Site Plan Approval from the Planning Board pursuant to §101-7 through 101-20 and §108-8 and §109-9 of the Town Code.”

E. §101-3 Subsection C is hereby deleted and in its place a new Subsection C is hereby enacted to read as follows:

“C

All applications for new telecommunications towers shall be made to the Zoning Administrator. If the Zoning Administrator determines that the application is administratively complete, the application shall be referred to the Planning Board for special permit and Site Plan Approval on an expedited basis in accordance with §108-8 and §109-9 of the Town Code. If the Planning Board concludes that the application complies with this chapter and all SEQRA requirements and all other applicable laws, the Board shall grant special use permit and Site Plan Approval.”

F. §101-5 New telecommunications towers (pursuant to §101-3C, Subsection A is hereby deleted and in its place a new Subsection A is hereby enacted to read as follows:

“A. The Planning Board may consider a request to locate a new telecommunications tower if the applicant can demonstrate that shared use of the existing tall structures and existing or approved telecommunications towers or telecommunications tower sites are impractical due to:”

G. §101-6 Future shared user of new towers, Subsection A is hereby deleted, and in its stead, a new Subsection A is hereby enacted which shall read as follows:

“A. Applications for new telecommunications towers shall include an agreement committing the owner of the proposed new telecommunications tower and its successors in interest, to negotiate in good faith for shared use of said tower by other providers of telecommunications in the future. This agreement shall be filed with the Planning Board and the Building Inspector prior to special use permit and Site Plan Approval and the issuance of any building permit for the facilities. Failure to abide by the conditions outlined in the agreement shall be grounds for the revocation of the special use permit and Site Plan Approval.”

H. §101-7 Site Plan/Special Use Permit review and submission requirements, subsection A(1) is hereby amended to delete the reference to Article XXIV of Chapter 108 and substitute in its stead Chapter 108 Zoning, Article 9 Site Plan Approval.

I. §101-7 Site Plan/Special Use Permit review and submission requirements, subsection B is hereby deleted and a new subsection B is hereby enacted which shall read as follows:

“B. Special Use Permit applications. Applications to the Planning Board for a special use permit shall include the following:”

J. §101-7(B)(2) and subsections C, D, E, F and G are hereby amended to delete all references to “Zoning Board of Appeals” and “Approving Board” and in their stead to insert “Planning Board”.

K. §101-9 Visual impact assessment is hereby amended to remove the reference to “Approving Board” and substitute in its place “Planning Board”.

L. §101-10(A)(1) is hereby deleted and in its stead a new subsection (1) is hereby enacted which shall read as follows:

“(1) Towers must be placed to minimize visual impacts. The use of camouflaged communications towers may be required by the Planning Board to further blend the communications tower and/or its accessory structures into the surroundings. The Planning Board may waive the camouflage requirements on already existing telecommunications sites.”

M. §101-10(A)(3) is hereby amended to delete the second sentence in said paragraph and in its stead enact the following new second sentence of said paragraph which shall read as follows:

“Fees for the review of the application by a qualified engineer and/or consultant are in addition to the application fee, and shall be the responsibility of the applicant and shall be deposited with the Town in the manner provided in §108-36.3 Professional Review Expenses of the Town Code.”

N. §101-10(C) is hereby amended to delete the last sentence of said paragraph and in its stead enact the following sentence which shall read as follows:

“All signs shall conform to the sign requirements of the Code of the Town of Hyde Park as set forth in Chapter 108, Article 24 Signs.”

O. §108-12 Screening, subsection B, is hereby deleted and in its stead, the following new subsection B is enacted which shall read as follows:

“The application shall demonstrate to the Planning Board that adequate measures have been taken to screen and abate site noises such as heating and ventilating units, air conditioners and emergency power generators. Telecommunications towers shall comply with all applicable sections of the Town Code as it pertains to noise control and abatement as set forth in Chapter 75 Noise.”

SECTION 4. REPEAL OF LOCAL LAW NO. 3 OF 2019.

The Moratorium Law on Telecommunications Towers and Facilities enacted by the Town Board as Local Law No. 3 of 2019 on May 6, 2019 is hereby repealed.

SECTION 5. STATEMENT OF AUTHORITY.

This Local Law is authorized by the New York State Constitution, Article IX, §2; the provisions of the New York State Municipal Home Rule Law (MHRL); the provisions of the Statute of Local Governments; all relevant provisions of the Town Law of the State of New York; the laws of the Town of Hyde Park and the general police powers vested in the Town of Hyde Park to promote the health, safety and welfare and residents and property owners within the Town.

SECTION 6. SEVERABILITY.

In the event that any section, paragraph, sentence, clause or phrase of this article is held invalid or unconstitutional by any court of competent

jurisdiction, the invalid or unconstitutional portions of this article shall be deemed severed from the article and shall in no way affect the validity of the rest of this article.”

SECTION 7. SUPERSESSION.

This local law is hereby adopted pursuant to the provisions of RPTL §487, §10 of the New York State Municipal Home Rule Law and §10 of the New York State Statute of Local Governments. It is the intent of the Town Board to supersede any provisions of the New York State Law to the extent that they may be inconsistent with the provisions of this Local Law.

SECTION 8. EFFECTIVE DATE.

This local law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.