

**ORDINANCE NO. 9-22 AN ORDINANCE AMENDING AND
SUPPLEMENTING ARTICLE XVI “WIRELESS
TELECOMMUNICATIONS TOWERS AND
ANTENNAS” IN CHAPTER 207 OF THE CODE OF THE
BOROUGH OF KINNELON TO PROVIDE GENERAL
REGULATIONS AND DESIGN STANDARDS FOR THE
LOCATION OF GOVERNMENTAL AND NON-
GOVERNMENTAL WIRELESS
TELECOMMUNICATIONS TOWERS AND ANTENNAS**

WHEREAS, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

WHEREAS, pursuant to N.J.S.A. 40:55D-1 et seq. the governing body of a municipality may adopt land use, land development and zoning ordinances; and

WHEREAS, the Borough of Kinnelon desires to amend and supplement Article XVI, “Wireless Telecommunications Towers and Antennas” of Chapter 207 “Zoning” of the Code of the Borough of Kinnelon, to provide for general regulations and design standards for the location of governmental and non-governmental wireless telecommunications towers and antennas.

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the Borough of Kinnelon, County of Morris, State of New Jersey, as follows:

SECTION 1. Article XVI, Section 207-83 “Purpose”, shall be amended such that the paragraph of said section is stricken and replaced with the following language and shall now read

as follows:

“This article establishes general regulations and design standards for the location of governmental and non-governmental wireless telecommunications towers and antennas. The goals of this article are: to avoid the incompatibility of towers and antennas with residential uses by prohibiting the location and siting of towers and antennas in the residential zones; as a first priority, to locate antennas on existing towers, structures and buildings rather than construct additional wireless telecommunications towers; as a second priority, to locate antennas and towers on municipally owned lands, public open space or park land; as a third priority, to locate towers in a nonresidential zone; to avoid potential damage to adjacent properties from tower failure through proper engineering and careful siting of towers; to encourage the collocation of antennas where technically feasible on any tower constructed under this article; and to prevent the construction, installation or placement of speculative towers where there is no demonstrated need.”

SECTION 2. Article XVI, Section 207-84 “Applicability; definitions and abbreviations”

shall be supplemented to include the following additional definition:

“**GOVERNMENTAL ANTENNA** – Any Antenna as defined herein which is owned, operated, maintained, repaired and replaced exclusively by a governmental entity and used exclusively for emergency and governmental communications purposes.”

SECTION 3. Article XVI, Section 207-86 “Locational and land use priority for towers and antennas” shall be amended such that Paragraph B of said section is stricken and replaced with the following language and shall now read as follows:

“B. The second priority location shall be on municipally owned lands, public open space or parkland.”

SECTION 4. Article XVI, Section 207-87 “Accessory uses and structures” shall be amended such that Paragraph A of said section is stricken and replaced with the following language and shall now read as follows:

“A. Notwithstanding anything in this Chapter 207 to the contrary, antennas are permitted as accessory uses and structures in all zone districts only if installed on a specific existing structure:

Structure	Block	Lot	Street
Relay tower	56502	113	Graceview Drive
Municipal water tower	45104	112	Lincoln Road

Water tank	34706	134	Cliff Trail
Municipal water tank	57401	147	Denise Drive
Department of Public Works Building 10801		102	Kinnelon Road”

SECTION 5. Article XVI, Section 207-89 “Permitted uses on public open space or parkland” shall be amended such that said section shall be re-titled and the paragraph of said section stricken and replaced with the following language and shall now read as follows:

“Permitted uses on municipally owned lands, public open space or parkland.

Where an applicant demonstrates in accordance with the requirements of §207-91C(1)(e) of this article that it is not technically feasible to install antennas on an existing tower, building or structure as enumerated in §207-87 of this article, or where reasonable arrangements cannot be made with the owner of the existing tower structure or building listed in §207-87 of this article, antennas and towers shall in next priority be a permitted use if located on municipally owned lands, public open space or parkland.”

SECTION 6. Article XVI, Section 207-90 “Permitted uses in all nonresidential zones” shall be amended such that the paragraph of said section is stricken and replaced with the following language and shall now read as follows:

“Where an applicant demonstrates in accordance with the requirements of §207-91C(1)(e) of this article that it is not technically feasible or where reasonable arrangements cannot be made with the owner to install antennas first on an existing tower, building or structure as enumerated in §207-87 of this article or on municipally owned lands or on public open space or parkland in accordance with this article, then antennas and towers shall in next priority be a permitted use in all nonresidential zone districts of the Borough.”

SECTION 7. Article XVI, Section 207-91 “Supplementary regulations for location of towers” shall be amended such that the first paragraph of said section, Paragraph A, is stricken and replaced with the following language and shall now read as follows:

“A. Height and setbacks. Where an applicant proposing to construct a new tower demonstrates to the satisfaction of the reviewing agency that suitable locations to hold an antenna on an existing tower, building or structure in accordance with the requirements of §207-91C(1)(e) as enumerated in §207-87 of this article either do not exist or are not available or where adequate and reasonable arrangements cannot be made with the owner of said structure to utilize the same, the applicant may propose a new tower on municipally

owned lands, public open space or parkland and, if the applicant demonstrates that it is not technically feasible to install antennas on municipally owned land or open space or parkland, then the applicant may propose a new tower on property in a nonresidential zone. The construction of any new tower shall be only in accordance with all zoning regulations of the zone in which the proposed structure is located and the following additional requirements:”

The subsections following Paragraph A shall remain unaffected by the aforesaid amendment.

SECTION 8. Article XVI, Section 207-94 “Application fees” shall be amended and supplemented such that said section shall be re-titled “Fees”, and said section replaced with the following language and shall now read as follows:

“207-94 **Fees.**

“A. Application fees. The applicant shall pay the site plan application fees set forth in §176-29 of the Borough’s Subdivision of Land Ordinance.

B. Expert fees. If the Planning Board or the Board of Adjustment requires the services of a radio frequency engineer or some other expert in connection with an application, the fees of such experts shall be paid by the applicant pursuant to §47-31L of the Land Use Procedures Ordinance.”

SECTION 9. Article XVI, Section 207-95 shall be amended such that said section is entirely stricken and replaced with the following language and shall now read as follows:

“§207-95 **Governmental Antenna.**

- A. Notwithstanding anything in this Chapter 207 to the contrary, a singular Governmental Antenna in the form of a monopole with a height not to exceed 100 feet, measured as defined herein, together with the related Wireless Telecommunications Equipment Compound, shall be permitted to be located on a portion of Block 57401 Lot 147, which property currently contains the Denise Drive water tank.
- B. Prior to the construction and installation of a Governmental Antenna in the form of a monopole on Block 57401 Lot 147, a site plan pursuant to section 176-37 E of this Code and section 207-92 of this article shall be submitted and approved.
- C. The construction and installation of the Governmental Antenna in the form of a monopole shall be subject to compliance with visual compatibility requirements in section 207-88 of this article.

D. The construction and installation of the Governmental Antenna in the form of a monopole shall be subject to all provisions of this Article XVI governing the installation of Antenna as otherwise not inconsistent with this section 207-96.”

SECTION 10. All ordinances, resolutions and regulations or parts of ordinances, resolutions and regulations inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 11. If any section, paragraph, article, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply to the section, paragraph, article, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

SECTION 12. This Ordinance shall take effect after approval and publication as required by law.

ATTEST:

BOROUGH OF KINNELON



Karen M. Iuele, RMC, Borough Clerk



James J. Freda, Mayor

CERTIFICATION

I, Karen M. Iuele, Borough Clerk of the Borough of Kinnelon, County of Morris, State of New Jersey, do hereby certify the foregoing to be a true copy of an Ordinance introduced, read by title and passed on the first reading at the regular meeting of the Borough held on June 16, 2022 and adopted by the Governing Body at a regular meeting of the Borough held on July 21, 2022.


Karen M. Iuele, RMC, Borough Clerk