

BOROUGH OF HILLSDALE
ORDINANCE NO. 12-10
(Adoption)

**AN ORDINANCE TO REVISE THE CONDITIONAL USE
STANDARDS FOR PUBLIC UTILITIES CHAPTER 310-67B**

I. WHEREAS, the Purposes of this Ordinance are:

1. To revise the Conditional Use standards for public utilities to protect the public health, safety, welfare, and property of the Borough of Hillsdale, and its residents.
2. To address an environmental, property, and quality of life concerns of the Borough of Hillsdale, including but not limited to the environmental preservation and protection of the air, ground, natural resources, water, quality of life and property value ("environment") within the Borough of Hillsdale. The Borough of Hillsdale recognizes that utility service providers which may serve a regional need, have or may located and operate their facilities within the Borough. These facilities may involve infrastructure, use, or operation that will affect the quality of the municipal environment. No utility installation should diminish the quality of life, or property value of Hillsdale's residents and businesses.
3. To establish Conditional Use standards so that no utility service provider should cause harm or diminish the values of property within the Borough, impair the municipality's thoroughfares or impede the Borough and/or other local emergency services, and:

II. WHEREAS, the purposes of zoning contained in N.J.S.A. 40:55D-2 include:

40:55D-2(a) To encourage municipal action to guide the appropriate use of development of all lands in this State in a manner which will promote the public health safety, morals and general welfare:

40:55D-2(b) To secure safety from fire, flood, panic and other natural and man-made disasters;

40:55D-2(d) To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities , the county and the State as a whole:

40:55D-2(g) To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens.

40:55D-2(h) To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight.

40:55D-2(i) To promote a desirable visual environment through creative development techniques and good civic design and arrangement.

To achieve the purposes of this ordinance as well as the above purposes of zoning, the following revisions are proposed to the Conditional Use standards for utility service providers.

III. NOW THEREFORE BE IT RESOLVED to Remove Section 310-67B from the Land Use Code of Hillsdale and replace with the following

310-67B. Public utilities: Public utilities as defined in N.J.A.48:2-13

They shall be permitted in any zone district provided that:

1. Should a utility service provider propose, for any reason, whether or not required by law, permit, order, any design, redesign, construction, repair, replacement, improvement, modification, upgrade, rehabilitation, alteration, expansion, or addition to any existing or new facility, installation, structure, building, or property installation ("utility development") be located within any zone district, the utility service provider shall provide evidence, in the form and substance as herein required, or requested by the Land Use Reviewing Board, demonstrating that the proposed utility development cannot be located in the Industrial Zone District of the Borough of Hillsdale, or elsewhere.

2. Should a utility service provider propose a utility development, said service provider must obtain Site Plan approval from the municipal land use board, pursuant to the requirements of Article XXIII of this chapter and all requirements contained herein Chapter 310-67B prior to commencing any site work on the utility development.

Such utility development includes, but is not limited to, changes to electrical substations and their transmission and distribution of power networks, changes to the storage facilities or operations including enclosed storage units or buildings, containment tanks or vessels, reservoirs and spillways, release, transmission, or distribution or transportation over land, by waterways, through subsurface means, of electricity, water, petroleum products, natural or manufactured gases, waste transfer, or any other utility services or utility products within the Borough of Hillsdale.

3. The proposed utility development, shall not alter or modify use or availability of the existing Borough, County or State roadway systems located within the Borough of Hillsdale unless specifically permitted in detail by the land use reviewing board.

4. The proposed utility development shall not alter or modify any properties and the improvements thereon owned or controlled by the Borough of Hillsdale, Bergen County or State of New Jersey. Such properties include, but are not limited to, roadways, municipal buildings, municipal parking areas, Board of Education buildings, recreational facilities, and open space.

5. The utility service provider shall submit to the Municipal Land Use Board, in the form and substance requested, an Environmental Impact Study (EIS) demonstrating the utility development and shall be in full compliance with the Stormwater Management Ordinances of the Borough of Hillsdale.

The proposed utility development shall not cause, contribute to, or exacerbate the flooding or detriment to a public or private roadway, public or private watercourse, or municipal or

private property. Proof of meeting this requirement shall be included in the EIS submitted to the land use board.

6. The submitted EIS shall include information showing that the proposed utility development shall not impair or divert the movement of wildlife across open spaces either on or below the ground surface, or in the air, in such a way that would be detrimental to the Borough environment. In the alternative, the EIS shall show or the applicant provide through testimony that such relocation or natural movement of wildlife will not occur or shall be mitigated within the utility property through proven methods. The utility provider shall employ a third-party NJ Department of Environmental Protection State-recognized, environment advocate or advocacy organization to approve such mitigation methods, or confirm that no wildlife mitigation is required.

7. The proposed utility development shall not cause or contribute to the release of stray electric current or voltage, or static charge, or cause or contribute to the mobilization of toxic or hazardous substances, or contamination of ground or surface waters, result in a noxious fumes or hazardous materials on a Borough public or private roadway, or municipal or private property located within the Borough.

8. The proposed utility development shall not negatively impact or reduce the Level of Service at any time the Borough's transportation system, including but not limited to roadways, pedestrian passageways, and mass transit systems.

9. The proposed utility development shall not negatively impact, cause additional travel time, cause delays in, or compromise the Borough's provision of emergency services to its resident, its businesses, and area municipalities.

10. During the course of its public hearing before the land use board, the proposed utility provider shall provide testimony that, should its installation include a component for emergency procedures or events, such component shall not compromise the general health, welfare, and safety of the Borough of Hillsdale residents and employees of commercial enterprises.

11. To confirm that there is no negative impact to the Borough's transportation system or provision of emergency services, the utility service provider applicant shall submit referrals to the municipal Police, Ambulance Corps, Fire Department, Emergency Management, local and regional Boards of Education, for review of the application, to determine that there will be no negative impact on emergency services. Affidavits showing that the necessary referrals have been made at least 30 days prior to the public hearing on the matter are required.

12. In an effort to protect the desirable visual environment of the Borough, to prevent potential devaluation of lands within the Borough, and consistent with the purposes of zoning contained within the Municipal Land Use Law, the utility development shall be visually buffered at all times of the year from all adjacent properties, including but not limited to public and residential property. Buffers shall provide a solid barrier from view of the utility development from adjacent residential lands and municipal open space or parks, or lands used for residential purposes. The only exception to this requirement is where the utility development and/or infrastructure is located on public lands, or within the public rights-of way and visual screening is deemed impracticable by the reviewing land use board. The

maximum height of a solid, man-made barrier shall be no greater than that permitted in the zone district for fences.

Visual mitigation may also include, but is not limited to, colorized or architecturally-treated construction materials to visually blend with vegetated surroundings, mass evergreen or pine plantings, or other means deemed appropriate by the reviewing land use board. Buffers may be planted on adjacent residential properties to achieve the same barrier effect with approval by the reviewing land use board and the property owner on which the buffer will be planted. Tree removal restitution shall be as prescribed in other sections of the land use ordinance.

13. As part of the Conditional Use and Site Plan approval process for a proposed new utility development to an existing utility development, the application shall include an Environmental Impact Study (EIS) in the form and substance requested by the Municipal Land Use Board. The EIS shall provide, at a minimum that the proposed utility development shall not produce heat, cold, fumes, or energy, to the air, ground surface, or groundwater, without a balanced environment for same either through natural plantings, mechanical conditioning, or choice of colors and materials. Ambient temperatures over the lands to be improved shall be maintained from the pre-construction environment or shall be compensated within the utility development, or on lands within the Borough.

14.. The Site Plan shall include a Lighting Plan, which will be designed so that all site, emergency, security, or architectural lighting of the proposed utility development shall be shielded. The light source element and light glare shall not be visible at any angle from adjacent residential properties, and shall not produce trespassing glare to the public right-of-way, thoroughfares, or pedestrian walkways.

15. The Site Plan shall include a Temporary Control Traffic Plan to maintain as safe environment for both motorists and pedestrians. The proposed utility development shall provide for temporary traffic controls during construction as approved by the Borough and County Engineer. Such traffic controls may include temporary traffic signals, or warning devices, traffic control personnel, temporary bridges, temporary pedestrian walkways and structures, placement and availability of emergency service vehicles to remove disabled motorists if such impairment affects the local transportation network of streets and roadways. Determination and need for the above by the Borough Engineer shall be made upon presentation and review of traffic circulation/mitigation studies submitted to the reviewing land use board.

16. Subject to the review of the land use board, the proposed utility development shall not produce any noise, sound, or vibrations, either intermittent or continuous above the limits of accepted standards for noise decibel volume, at the utility company property line at any time considering all times of the year. Such sound or vibration emanation shall be effectively buffered by either proven mechanical or natural means, as shown by environmental and/or mechanical studies presented to the reviewing land use board as part of the Site Plan application. This may include power emergency generators, standby or stored vehicles or equipment, pumps and mechanical devices, transformers, meters, valves, and high velocity movement of utility products either above or below the ground surface.

17. The Utility provider's Site Plan shall include sustainable building practices to promote utilization of renewable energy resources consistent with the purposes of the Municipal Land Use Law.

18. All bulk and design standards of the underlying zone district in which utility development is located shall be followed.

IV. **BE IT FURTHER RESOLVED** that all Borough code, ordinance and resolutions inconsistent with the provisions of this ordinance are hereby repealed as to such inconsistencies.

V. The Borough Clerk is hereby directed to publish notice of the passage of this Ordinance and to file a copy of the Ordinance as finally adopted with the Bergen County Planning Board. The Clerk shall also transmit a copy of this Ordinance after final passage to the Borough Tax Assessor, as well as to the Clerks of all adjoining municipalities.

VI. This Ordinance shall take effect immediately upon adoption and publication as required by law.

Council member	Motion	Second	Yes	No	Absent	Abstain
Becker, Leslie			X			
Capawana, Rod		X	X			
DeRosa, Anthony			X			
Frank, Douglas	X		X			
Giancarlo, Michael			X			
Hanlon, Marie			X			

Adopted: May 1, 2012



Susan Witkowski
Municipal Clerk



Max Arnowitz
Mayor