

**ORDINANCE NO. 8 - 2019  
TOWNSHIP OF FAIRFIELD**

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**AN ORDINANCE AMENDING THE LAND DEVELOPMENT ORDINANCE TO  
REGULATE WIRELESS TELECOMMUNICATION FACILITIES AND  
INSTALLATIONS IN THE TOWNSHIP OF FAIRFIELD**

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**BE IT ORDAINED** by the Township Committee of the Township of Fairfield, County of Cumberland, and State of New Jersey as follows:

**WHEREAS**, the Municipal Land Use Law of the State of New Jersey, N.J.S.A. 40:55D-1, et seq., grants to municipalities the power to adopt a zoning ordinance relating to the nature and extent of the uses of lands, buildings and structures thereon; and

**WHEREAS**, the Township of Fairfield desires to supplement its existing Land Development Ordinance to include the regulation of wireless telecommunication facilities and installations in the Township.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Fairfield, County of Cumberland, and State of New Jersey as follows:

SECTION VI. Section C10: Definitions, of the Land Development Ordinance of the Township of Fairfield, Cumberland County, New Jersey is hereby amended to add the following definitions thereto:

**ANTENNA** - A device used to transmit and/or receive radio or electromagnetic waves between earth and/or outer-space based structures.

**COMMERCIAL COMMUNICATIONS ANTENNA (CCA)** - An antenna that is intended for commercial transmission or reception of personal wireless telephone services and data communications, and including commercial mobile services communications and common carrier wireless exchange access services.

**CCA EQUIPMENT** - Electronic and telecommunications equipment that are essential for the transmission and reception of wireless telecommunications in conjunction with antennas.

**CCA BUILDINGS** - Buildings used to house and shelter CCA Equipment and not otherwise intended for human occupancy other than for maintenance.

**CCA EQUIPMENT COMPOUND** – Area containing CCA Equipment and CCA Antennas.

**CCA MONOPOLES AND TOWERS** - A vertical structure designed principally to elevate and support wireless telecommunications antennas, which is freestanding and is not attached to a building or a structure, having an independent principal purpose or function.

**CCA INSTALLATIONS** - Buildings, structures, equipment, antennas and towers used for the delivery of wireless radio telecommunications through a network.

**VII. REQUIREMENTS FOR WIRELESS TELECOMMUNICATION FACILITIES AND INSTALLATIONS.**

**1. Purposes**

The purpose of this section is to regulate the location, placement, operation and maintenance of Commercial Communications Antenna (CCA), any related towers, masts, poles, to include but not limited to utility poles, monopoles, or similar structures used primarily to support and raise the vertical elevation of the antenna, CCA Equipment and CCA Buildings within the Township of Fairfield. This ordinance is intended to meet the requirements of the Telecommunications Act of 1996, in the context of this Act, while reasonably regulating CCA

technology within the Township so as to permit the use in appropriate locations so as to avoid the proliferation of CCA towers and to safeguard aesthetics and public safety. The definitions of the following terms are contained in Section VI C(10) of the Land Development Ordinance of the Township of Fairfield:

- A. Commercial Communications Antenna;
- B. CCA Equipment;
- C. CCA Buildings;
- D. CCA Equipment Compound;
- E. CCA Monopoles and Towers; and
- F. CCA Installations.

## 2. Permitted Locations.

A. CCA installations are potentially necessary based upon the range of wireless antennas dictating limited functionality in many areas. A hierarchy of potential locations to be considered for new CCA's is as follows:

- Co-locating on an existing tower or structure industrially zoned property
- Municipal property or Fairfield Rescue Squad or Fairfield Fire Companies property
- Industrially zoned property
- Planned Business Industrial (PBI)
- Agriculturally zoned property
- Commercially zoned property
- Marine Resort
- Residentially zoned property

The hierarchical list is provided such that the applicant is directed to go through the list and demonstrate that it would be infeasible to use a site at the top of the list before moving down the list. The hierarchical list in this Section is provided by way of providing for an analysis on the basis of the proposed installation being a conditional use. All locations are subject to Federal Communications Commission Requirements, any applicable State Requirements and Regulations and pursuant to the requirements provided herein.

B. New CCA installations shall be permitted on monopoles or towers that have been approved by the Fairfield Township Zoning Board of Adjustment prior or subsequent to the adoption of this Section.

C. CCAs are permitted to be mounted on buildings, when permitted, are to be mounted to a facade of a building and are designed to blend into the existing architectural detailing and coloring of the building. Facade mounted antennas shall not extend above the roof line.

D. CCAs may be mounted on public water storage structures and shall not extend higher than twenty feet above the highest portion of the structure

## 3. Proof of Need and Minimum Impact.

The applicant shall be required to demonstrate that the development is the minimal necessary to provide adequate communications as may be authorized by the Federal Communications Commission. Included as part of this requirement, the applicant shall demonstrate at least, but not necessarily limited to the following:

A. That the technology proposed is the least visually intrusive of various suitable technologies.

B. That the height of the antennas is the minimum necessary given the carrier's network and requirements.

C. That collocation of the antenna on other existing structures, or that location at a less visible site, or that the use of micro cells, providing more numerous antennas at lower heights, either within or outside of the Township of Fairfield, is either not practical in order to provide

adequate communications or that the visual impact to the community on the proposed site is less than would exist at such alternative site

D. That the use of digital technology for other existing and pending antennas in the area would not eliminate the need for the proposed antenna.

E. In addition to submission of all applications required by the Land Development Ordinance, all applications for the installation, construction, erection, movement, reconstruction or modification of any CCA shall submit the following:

1. Needs Analysis. The Needs Analysis shall contain documentary evidence demonstrating the need for the proposed installation, construction, erection, movement, reconstruction, or modification of any CCA within the Township. This evidence shall include, at a minimum:

- (a) The CCA service provider's wireless telecommunications network layout and coverage areas for a radius of at least ten (10) miles from the proposed site, identifying all locations:
  - (i) In operation as of the filing date of the development application.
  - (ii) Under construction as of the filing date of the development application.
  - (iii) Pending approval before any licensing authority as of the date of the development application.
  - (iv) The approving Board may appoint, at the applicant's expense, a qualified independent engineer to review and analyze its supporting data, and its underlying assumptions.
  - (v) .Planned or projected approval and construction within the next ten (10) years following the filing date of the development application.
- (b) All results and to the extent requested by the approving board, supporting data derived from tests which must be conducted to determine before and after signal strength plots. Those results and data:
  - (i) Shall demonstrate the actual existing signal coverage in effect at the time of application, contrasted with the proposed signal coverage which would result from the proposed installation, construction, erection, movement, reconstruction, or modification of the CCA within the Township of Fairfield.
  - (ii) Shall be certified by a qualified, independent radio frequency engineer. The Board reserves the right to retain a radio frequency engineer on its own behalf at the applicant's expense to review the results or data submitted by the applicant.
- (c) A search ring of the zones and locations in which the use is permitted prepared by a professional radio frequency engineer and overlaid on an appropriate background map demonstrating the area within the permitted locations where the CCA needs to be located in order to provide reasonably necessary signal strength and coverage to the target cell.
- (d) In connection with the signal strength plots and search ring described above, the applicant must provide a report prepared by a qualified independent professional engineer which explains why the proposed location was selected.

3. Maximum RF Exposure Analysis. The Maximum RF Exposure Analysis shall be a written report prepared by a qualified engineer with expertise in radio frequency (RF) radiation safety. The report shall identify all applicable laws, regulations, and industry standards establishing maximum exposure levels for RF radiation. The report shall calculate the maximum

RF exposure levels at the lot or lease lines of the proposed site, based upon the maximum power output of the full complement of Commercial Communication Antennas which the tower or other supporting structure is capable of accommodating. The Analysis shall demonstrate, to the satisfaction of the approving board that the maximum RF exposure at the lot or lease lines of the proposed site would not exceed the applicable maximum RF exposure levels established by federal or state law or regulation or by generally recognized industry safety standards. In the event that the Analysis does not demonstrate that the maximum RF exposure at the lot or lease lines is less than the lowest applicable maximum level by at least a factor of ten (10), the approving board may appoint, at the applicant's expense, a qualified independent engineer to review the Analysis, its supporting data, and its underlying assumptions.

4. Setback and Bulk Standards.

A. CCAs mounted on freestanding monopoles and towers shall be consistent with the following requirements:

1. The minimum lot area required for the placement of a CCA monopole or tower is one (1) acre.

2. The maximum height for a CCA monopole or tower on which antennas may be placed is one hundred and fifty feet (150') and antennas mounted on such monopoles shall not extend beyond the maximum height.

3. Freestanding CCA monopole or tower and related equipment shall not be located in the front yard.

4. The location of the CCA monopole or tower and any supporting equipment shall conform to the side and rear setbacks for the zone in which it is located or one half ( $\frac{1}{2}$ ) the height of the tower, whichever is greater.

5. New CCA monopoles and towers installations shall be limited to monopole designs only. Freestanding lattice towers and guyed towers of any kind are prohibited.

6. To the maximum extent practicable, CCA monopoles and towers shall be designed to permit co-location of additional antennas.

7. No CCA monopole or tower shall be lighted except as may be required by state or federal law.

8. The base of the CCA monopole or tower support structure and any related structures and equipment shall be screened by a landscaped buffer and/or fencing material and secured from the street and adjacent properties in a manner acceptable to the Fairfield Township Planning Board. If deemed necessary by the Planning Board to reasonably mitigate the visual impact of the CCA monopoles or towers, its antenna and related structures and equipment may be required to be modified in appearance so as to blend in with the surroundings as determined by the Planning Board to be appropriate to the site in the particular situation. The foregoing may include, but shall not necessarily be limited to, such modifications as special paint treatment, concealment through architectural means such as a bell tower, steeple, flag pole, etc., or the use of other "stealth technologies."

9. Notwithstanding any provisions of this chapter to the contrary, a CCA monopole or tower is a principal use permitted on the same lot as any other permitted principal use or structure in the permitted locations identified in this ordinance.

A. CCA Equipment and CCA Equipment Compound shall conform to the following:

1. CCA equipment compounds shall be enclosed within a locked security fence no greater than eight (8) feet in height, unless enclosed within a building

2. No CCA equipment compound or enclosure or any CCA equipment housed therein shall exceed ten (10) feet in overall height. If the enclosure is to be installed on the rooftop of a building or structure then the facility shall not exceed ten (10) feet in height over the roofline and shall be set back the distance of the height of the roofline. If a larger enclosure is necessary it shall be located on the ground.

3. Reasonable efforts, including landscaping and buffering shall be employed to camouflage and minimize the visual impact of any CCA equipment installed or constructed pursuant to the provisions of this subsection.

4. CCA technology shall fully conform to all applicable federal, state and local laws.

5. Routine maintenance of CCA installations shall be limited to the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.

#### B. Additional Requirements.

In addition to compliance with all applicable zoning and site plan regulations, applications for approval of CCA installations shall include the following:

1. An access driveway to safely accommodate one vehicle, as may be necessary to provide emergency and maintenance access, should be provided in a location approved by the Planning Board.

2. The color or colors of the proposed CCA, monopole or tower and equipment shall be provided.

3. A visual impact analysis shall be provided with particular attention given to the visibility of the proposed CCA installation from key viewpoints in the neighborhood.

4. A map of existing CCA installations within the Township of Fairfield which are owned, leased or otherwise under the custody, control or use of the applicant or other CCA service providers at the time of the application, and other sites within the Township of Fairfield where CCA facilities are proposed or projected to be installed.

5. A certified load analysis report prepared, signed and sealed by a professional engineer, for the building, structure, existing monopole or proposed monopole upon which the CCA antenna is proposed to be located, indicating its ability to support possible future collocated CCAs.

6. The reviewing board may, where appropriate, require the applicant to conduct a simulation of the visibility of the proposed CCA installation in order to better assess the visual impact of the installation.

#### C. Abandonment and Removal.

The applicant shall annually notify the Township Planning Office of the number of users. CCA installations and equipment which are not operated for CCA purposes for a period of 120 days or four (4) months shall be considered abandoned and shall be removed by the owner, at the owner's expense. This removal shall occur within ten (10) days at the end of such four (4) month period of inactivity. If such CCA Installation is not removed within the ten (10) day period, the municipality may remove the tower and its structures at the owner's expense. If the CCA installation is to be retained, the owner shall provide proof that the CCA installation will be reused no later than three (3) months of the expiration of the ten (10) day notice described above. If the CCA Installation is not used within the calendar year, a demolition permit shall be obtained and CCA Installation removed. Upon removal, the site shall be cleaned, cleared, restored and landscaped to preconstruction conditions. To ensure the removal of CCA Installations, the owner thereof shall post a bond, to be reviewed by the Township Engineer and in a form acceptable to the Township Attorney and Township Engineer at the time a construction permit is issued to cover the costs of the CCA installation removal, disposal and site restoration.

The owner shall provide annual written demolition cost estimates for the purpose of adjustments to such bond.

SECTION VIII.

- A. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in such conflict or inconsistent. All former Ordinances of the Township of Fairfield which are in conflict with the provisions outlined in this Ordinance are hereby repealed upon the adoption of this Ordinance.
- B. This Ordinance may be renumbered for codification purposes. If any part or parts of this Ordinance are held to be invalid for any reason such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION IX.

- A. In the event that any section, part or provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part so held unenforceable or invalid

SECTION X. This Ordinance shall take effect after passage and publication in the manner provided by law.

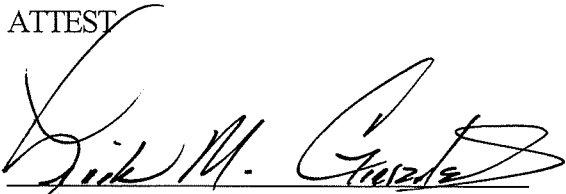
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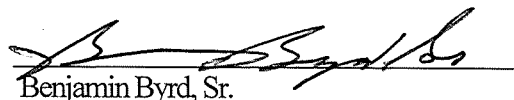
TOWNSHIP OF FAIRFIELD

STATE OF NEW JERSEY :  
 : ss  
 COUNTY OF CUMBERLAND :

Please take notice that the above Ordinance was adopted after a Public Hearing at a meeting of the Fairfield Township Committee on the 18th day of September, 2019 at the Fairfield Township Municipal Building in Fairton, New Jersey.

ATTEST

  
 Linda M. Gonzales, RMC  
 Municipal Clerk

  
 Benjamin Byrd, Sr.  
 Mayor

Adoption: First Reading: August 21, 2019  
 Publication on First Reading: September 13, 2019  
 Second Reading/ Public Hearing: September 18, 2019  
 Final Adoption: September 18, 2019  
 Publication on Final Reading: September 23, 2019

Final Adoption:  
 Motion By: David Gonzalez  
 Seconded By: Mark K. Pierce, Sr.  
 Aye: Tommy Clark, Jr., David Gonzalez, Mark K. Pierce, Sr., Deputy Mayor Marvin Pierce, Jr. and Mayor Benjamin Byrd, Sr.

Nay: None  
 Abstain: None