

**TOWNSHIP OF RARITAN  
COUNTY OF HUNTERDON, NEW JERSEY**

**ORDINANCE 19-08**

**AN ORDINANCE OF THE TOWNSHIP OF RARITAN, COUNTY OF HUNTERDON, STATE OF NEW JERSEY AMENDING TITLE 16 ENTITLED "ZONING" OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF RARITAN BY REVISING SECTION 16.02.030 ENTITLED "DEFINITIONS" OF CHAPTER 16.02 ENTITLED "PURPOSE, ADMINISTRATION, DEFINITIONS;" ADDING NEW CHAPTER 16.71 ENTITLED "COLLOCATION, REMOVAL AND REPLACEMENT OF WIRELESS ANTENNAS ON EXISTING FACILITIES;" AND REVISIONS TO SCHEDULE IV ENTITLED "FEES"**

**WHEREAS**, the Township of Raritan has reviewed Title 16, Land Development Code, Title III of the Township Code, entitled "Zoning," and has determined this section should be revised in accordance with recent law and regulations; and

**WHEREAS**, the current Code does not have provisions for cellular antennas collocation, removal or replacement of antennas on existing towers and applications for such collocation, removal and replacements are currently handled by the Zoning Board of Adjustment through the waiver of site plan review and approval process pursuant to Ordinance section 16.14.020, which consumes a lot of Board time and applicant expense; and

**WHEREAS**, on October 21, 2014, the Federal Communications Commission issued a Report and Order which allows municipalities to process applications for modification of existing wireless towers and base stations administratively, either through their land use boards or through their municipal officials; and

**WHEREAS**, under §6409(a) of the *Middle Class Tax Relief and Job Creation Act of 2012*, Pub.L. 112-96 (the so-called *Spectrum Act*), federal law provides that governments may not deny, and shall approve, eligible facilities' request for modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station, but conditions may be imposed on the grant of such applications; and

**WHEREAS**, a local government may continue to enforce and condition approval on compliance with general applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety and allows municipalities to have discretion over a modification application if it:

entails any excavation or deployment outside the current site of the tower or base station;

would defeat the existing concealment elements of the structure; or

does not comply with conditions associated with the prior approval of the structure, subject to certain exceptions such as non-substantial increase in height; and

**WHEREAS**, the Municipal Land Use Law, N.J.S.A. 40:55D-46.2, holds that an application for development to collocate wireless communications equipment on a wireless communications support structure or an existing equipment compound shall not be subject to site plan review, subject to certain requirements:

the wireless communications structure was previously granted all necessary approvals;

the proposed collocation shall not increase the overall height of the wireless communications support structure by more than ten (10%) percent of the original height, the width of the wireless communications support structure, or the square footage of the existing equipment compound to an area greater than 2,500 square feet;

the proposed collocation complies with the final approval of the wireless communications support structure and all conditions attached thereto and does not create a condition for which a variance would be required.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Raritan, County of Hunterdon, State of New Jersey as follows:

**Section 1.** Chapter 16.02 entitled “Purpose, Administration, Definitions” of Title 16 entitled “Zoning” of the Township Code is amended and supplemented through the addition of the following definitions to Section 16.02.030 entitled “Definitions” as follows:

...

#### **ELIGIBLE FACILITIES REQUEST**

A request for modification of an existing wireless tower or base station that does not constitute a substantial change (as defined herein) and involves collocation of new transmission equipment; removal of transmission equipment; or replacement of transmission equipment.

...

#### **SUBSTANTIAL CHANGE**

A modification that substantially changes the physical dimensions of an eligible support structure, as defined by 47 CFR 1.50001(c), as may be amended, but which currently provides the following criteria:

- i. For towers other than towers in the public right-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater (changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings’ rooftops; in other circumstances, changes in height should be

measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act. 47 CFR §1.40001(b)(7)(i)(A));

- ii. For towers other than towers in the public right-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
- iii. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public right-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
- iv. It entails any excavation or deployment outside the current site;
- v. It would defeat the concealment elements of the eligible support structure; or
- vi. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in paragraphs (i) – (v) of this section.

**Section 2.** Title 16 of the Township Code entitled “Zoning” is hereby supplemented and amended through the addition of Chapter 16.71 entitled “Collocation, Removal and Replacement of Wireless Antennas on Existing Facilities” as follows:

16.71.010. Purpose

The purpose of this chapter is to provide requirements for Eligible Facilities Requests for modifications to existing towers or base stations that do not constitute a substantial change.

16.71.020. Collocation on an Existing Structure; Eligible Facilities Request

- A. Application. All applicants shall submit the information necessary for the Township to consider whether an application is an Eligible Facilities Request, as set forth in Section 16.71.030. The applicant will not be required to demonstrate a need or business case for the proposed modification.

- B. Type of Review. Upon receipt of an application for an Eligible Facilities Request pursuant to this Chapter, the Township Engineer shall review such application to determine whether the application so qualifies.
- C. Timeframe for Review. Within 60 days of the date on which an applicant submits an application seeking approval under this Chapter, the Township Engineer shall approve the application with or without conditions unless the Township Engineer determines that the application is not covered by this Chapter, in which case the Township Engineer shall deny the application.
- D. Tolling of the Timeframe for Review. The 60-day review period begins to run when the application is filed, and may be tolled only by mutual agreement by the Township of Raritan and the applicant, or in cases where the Township Engineer determines that the application is incomplete.
1. To toll the timeframe for incompleteness, the Township Engineer must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application.
  2. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the Township Engineer's notice of incompleteness.
  3. Following a supplemental submission, the Township Engineer will notify the applicant within 10 days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this section. Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.
- E. Not a Covered Request. If the Township Engineer determines that the applicant's request for collocation is a substantial change to collocation on an existing structure as defined in this Ordinance, the presumptively reasonable timeframe, as prescribed by the FCC's Shot Clock order, will begin to run from the issuance of the Township Engineer's decision that the application is not a covered request. To the extent such information is necessary, the Township Engineer may request additional information from the applicant to evaluate the application. When the Township Engineer determines that such an application constitutes a substantial change, applicable portions of this Chapter and the Raritan Township Ordinances must be complied with, including but not limited to the requirement for site plan review and application for variances.
- F. Failure to Act. In the event the Township Engineer fails to approve or deny a request seeking approval under this Chapter within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed

grant does not become effective until the applicant notifies the Township of Raritan in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

- G. Remedies. Applicants and the Township of Raritan or its agents may bring claims related to this Chapter to any court of competent jurisdiction.

16.71.030. Eligible Facilities Request Application Requirements. An Eligible Facilities Request Application shall include the following:

- A. Applicant's certification that they have the legal authority to collocate/modify a support structure which may include approvals from the jurisdiction authorizing the initial placement of transmission equipment on the tower or other structure.
- B. The identity of the owner of the parcel.
- C. Detailed site information. Except where the facility will be located entirely within an existing structure or an existing building, detailed site plan information shall show:
  1. Existing and proposed improvements. The location and dimensions of the existing facility and the maximum height above ground of the facility (also identified in height above sea level).
  2. Elevation. The benchmarks and datum used for elevations.
  3. Design. The design of the facility, including the specific type of support structure and the design, type, location, size, height and configuration of applicant's existing and proposed antennas and other equipment. The method(s) by which the antennas will be attached to the mounting structure shall be depicted. (Note shall be placed on all plans that the antennas, fasteners, frames, cables, brackets and miscellaneous equipment shall be painted as directed by the Township Engineer and/or Zoning Officer.)
  4. Structural Analysis.
  5. Setbacks. All existing setbacks.
  6. Location of accessways. The location of all existing accessways and the location and design of all proposed accessways.
  7. Any existing/proposed landscaping, screening and buffering.
  8. A Knox Box and/or Knox padlock for emergency services shall be shown on the plans and provided.
  9. Latest TIA Inspection Report.

D. All applications for cellular towers, including collocation and Eligible Facilities Requests, shall comply with any and all general applicable building, structural, electrical, and safety codes, as well as any others deemed by the Township Engineer to be related to health and safety.

E. As-built plans for all approved plans shall be provided post construction.

**Section 3.** Title 16 entitled “Zoning” of the Township Code is amended and supplemented through the revision of Schedule IV entitled “Fees,” to add a new review fee as follows:

Collocation on Existing Cellular Tower Structure/Eligible Facilities Request Review Fee:

Application  
\$600

Escrow  
\$1,000

**Section 4.** If any section or provision of this Ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 5.** The Township Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Hunterdon County Planning Board and to all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-15, including to the Clerk of adjoining municipalities.

The Township Clerk shall execute Affidavits of Proof of Service of the notices required by this section, and shall keep the Affidavits on file along with the Proof of Publication of the notice of the required public hearing on the proposed change.

**Section 6.** After introduction, the Township Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Township of Raritan for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Township Committee, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance which are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

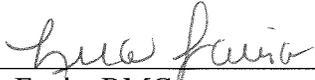
**Section 7.** All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

**Section 8.** This Ordinance shall take effect upon (i) filing with the Hunterdon County Planning Board in accordance with the Municipal Land Use Law; and (ii) adoption and publication in the manner required by New Jersey law.

**DATE ADOPTED:** May 21, 2019

**ATTEST:**

**TOWNSHIP COMMITTEE OF THE  
TOWNSHIP OF RARITAN**



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Lisa Fania, RMC  
Township Clerk



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Jeff Kuhl  
Mayor