

LEON S. AVAKIAN, INC. *Consulting Engineers*

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February 16, 2022

Neptune Township Planning Board
PO Box 1125
25 Neptune Boulevard
Neptune, NJ 07753

**Re: Ordinance 22-05
Section 26 Consistency Determination**

Dear Board Members:

Pursuant to NJAC 40:55D-26, Neptune Township Ordinance 2022-05, An Ordinance Amending Land Development Ordinance, Volume II, Article IV, Section 415.20, Entitled, "Small Wireless Facilities and Wireless Poles in the Public Right of Way" in the Township of Neptune, County of Monmouth, New Jersey, is consistent with the Township of Neptune Master Plan.

Among the key goals within the Comprehensive Master Plan, dated January 2012, recommends that the Township "Encourage the development of high technology infrastructure within the Township," as such, the above-referenced ordinance is consistent with the Township's Master Plan.

Should you have any questions or require any clarification regarding this matter, please do not hesitate to contact this office.

Very truly yours,

LEON S. AVAKIAN, INC.



Jennifer C. Beahm, PP, AICP
Planning Board Planner

JCB

cc: Mark G. Kitrick, Esq., Board Attorney
Peter Avakian, P.E., Board Engineer

ORDINANCE #22-05

**ORDINANCE AMENDING LAND DEVELOPMENT ORDINANCE, VOLUME II, ARTICLE IV,
SECTION 415.20, ENTITLED, “SMALL WIRELESS FACILITIES AND WIRELESS POLES IN THE
PUBLIC RIGHT-OF-WAY**

WHEREAS, Neptune Township’s Land Development Ordinance has recognized existing Wireless Telecommunication Facilities and the need to regulate the same under Section 415.19, but has not addressed the issue of Small Wireless Facilities in the Public Right-of-Way; and

WHEREAS, in September, 2018, the Federal Communications Commission (“FCC”) adopted regulations that have a significant impact on local decision making with respect to applications for Small Wireless Facilities requiring amendments to the local ordinances concerning regulation of such facilities.

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Neptune in the County of Monmouth in the State of New Jersey that the Land Development Ordinance, Volume II Article IV, shall be amended to add Section 415.20, entitled, “Small Wireless Facilities and Wireless Poles in the Public Right-of-Way” as follows:

§415.20 – Small Wireless Facilities and Wireless Poles in the Public Right-of-Way.

A. Purpose.

1. The purpose and intent of this Section is to:
 - (a) Establish a local policy concerning small cell equipment and wireless poles.
 - (b) Conserve the limited physical capacity of the Public Right-of-Way held in public trust by the Township and the County.
 - (c) Assure that any and all telecommunications carriers providing telecommunications services in the Township through small cell equipment and wireless poles comply with the laws, rules and regulations of the Township.
 - (d) Assure that the Township can continue to fairly and responsibly protect the public health, safety and welfare.
 - (e) Enable the Township to discharge its public trust consistent with rapidly evolving Federal and State regulatory policies, industry competition and technological development.
2. This section shall supplement §415.19, “Wireless Telecommunications Facility,” by establishing guidelines for placement of small cell facilities and wireless poles in the Public Right-of-Way. This Section is intended to be in addition to, and not in lieu of, any other ordinances, statutes, rules and regulations applicable to small cell facilities and wireless poles. Nothing herein shall abrogate any Federal, State, or Local Regulation applicable to small cell facilities and wireless poles, including without limitation to the provisions of §415 regarding land use in the Township of Neptune.

B. Definitions.

1. As used in this Section, the following terms shall have the meaning as follows:

- (a) **Alternative Power Facility.** An existing or proposed structure that is compatible with the natural setting and surrounding structures and that camouflages or conceals the presence of the antennas and can be used to house or mount a personal wireless telecommunications service antenna. Examples include man-made trees, clock towers, bell steeples, light poles, silos, existing utility poles, existing utility transmission towers and other similar alternative designed structures.
- (b) **Anticipated Municipal Expenses.** The cost of processing an application to place small cell equipment or wireless poles in the Public Right-of-Way, including but not limited to, all professional fees such as engineer and attorney costs.
- (c) **Applicant.** The person or entity seeking an application for a permit to place small cell equipment or wireless poles within the Public Right-of-Way.
- (d) **Co-location.** With regard to installation, mounting or modification.
 - (1) Mounting or installing an antenna facility on a preexisting structure, and/or;
 - (2) Modifying a structure for the purpose of mounting or installing an antenna facility on that structure.
- (e) **Existing Pole.** A wireless pole, or pole owned by an incumbent local exchange carrier, competitive local exchange carrier, electric distribution company or other company that is in lawful existence within the Public Right-of-Way. It shall not include an antenna, monopole or preexisting towers and preexisting antennas, for which a building permit has been properly issued prior to the effective date of this Section, including permitted towers or antennas that have been approved, but have not yet been constructed so long as such approval is current and not expired.
- (f) **FCC or Federal Communications Commission.** The Federal Administrative Agency, or lawful successor authorized to regulate and oversee telecommunication carriers, services and providers on a national level.
- (g) **Grantee.** The person or entity for which a license, as defined in this Section is granted by the Township and the lawful successor, transferee or assignee of such person, entity or corporation.
- (h) **Historic District.** An area that is zoned or otherwise designated as a historic zoning district under Municipal, State or Federal Law and for which the Township maintains and enforces the uniform and non-discriminatory basis with regard to all users of the Public Right-of-Way pursuant to this ordinance.
- (i) **License Agreement.** A contract by which the Grantee is allowed to use the Township's Public Right-of-Way for the purpose of carrying on the business in which it is generally engaged, including furnishing service to members of the public.
- (j) **Municipal Facilities.** Any property, both real and personal, including physical installations in the Public Right-of-Way that is owned by the Township of Neptune.
- (k) **Personal Wireless Service.** A type of "commercial mobile radio service" (as that term is defined in 47 CFR 20.3) as listed at 47 CFR 20.9(a)(11) and as defined at 47 CFR

24.5, and provided by the use of “personal wireless service facilities” (as such phrase is defined in Section 704 of the Federal Telecommunications Act of 1996 , Pub. L. No. 104-104, 110 State 56 (1996), partially codified at 47 U.S.C. 332(c)(7)(C)(ii).

- (l) Professional Survey. A raised seal stamped survey completed by a duly licensed surveyor.
- (m) Public Right-of-Way. The surface of, and the space above, any public street, road, lane, path, public way or place, sidewalk, alley, boulevard, parkway, drive and the like, held by the Township or County as an easement or in fee simple ownership, or any other area that is determined by the Township or County to be a right-of-way in which the Township may allow the installation of small cell equipment and wireless poles or other telecommunications facilities.
- (n) Small Cell Equipment and Small Cell Facility. Any of the following that are attached, mounted or installed on an existing pole or wireless pole in the public rights-of-way and used to provide personal communications services:
 - (1) Wireless Facilities and transmission media, including femtocells, picocells and microcells;
 - (2) Outside distributed antenna systems (“ODAS”);
 - (3) A personal wireless service facility as defined by the Federal Telecommunications Act of 1996, as amended as of August 6, 2014; or
 - (4) A wireless service facility that meets both of the following qualifications:
 - (a) Each antenna is located inside an enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and
 - (b) Primary equipment enclosures are not larger than 17 cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch and cutoff switch.
- (o) Small Cell Network. A collection on interrelated small cell facilities designed to deliver wireless service.
- (p) Telecommunications. The transmission by wire, radio, optical or any electromagnetic system, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.
- (q) Telecommunications Carrier. Any provider of telecommunications services.

- (r) Telecommunications Facility. Any structure or device used for the purpose of providing, supporting, enabling, or otherwise facilitating telecommunications, including, but not limited to, small cell equipment and wireless poles and defined herein.
- (s) Township. Township of Neptune.
- (t) Township Committee. The Township Committee of the Township of Neptune.
- (u) Township Engineer. The person appointed to be Township Engineer for the Township of Neptune pursuant to N.J.S.A. 40:9-140.
- (w) Wireless Pole. A column or post lawfully located in the Public Right-of-Way used solely to support small cell equipment and/or provide personal wireless service.
- (x) Zone, Nonresidential. The zones designated in Article III, §300 of the Land Development Ordinance of the Township of Neptune as Zones B-1; B-2; B-3; C-1; C-2; C-3; C-4; C-5; C-6; C-7; L1; C; HD-B-1; HD-R.
- (y) Zone, Residential. Any zones permitting single-family, two-family or multifamily residences, assisted-living residences, nursing homes and/or residential health care facilities.

C. Applicability.

1. Any telecommunications carrier wishing to place small cell equipment, and/or wireless poles in the Public Right-of-Way must first enter into a License Agreement with the Township of Neptune. The placement of specific small cell equipment onto existing poles or the erection of wireless poles shall require the approval of a License Agreement by the Township Committee based on recommendations by the Township Engineer and Township Attorney.
2. If the Township's Land Use and Development Ordinances require site plan approval, or the approval of any variances from the Township Planning and Zoning Board, the applicant shall be required to secure any approvals and/or variances following the grant of a License under this Section. A Planning and Zoning Board Application for the construction, installation, or location for telecommunications facilities shall not be deemed complete until a License under this Section is granted by the Township.
3. Co-location. The shared use of existing freestanding or roof-mounted facilities shall be preferred to the construction of new facilities in order to minimize adverse visual impacts associated with the proliferation of towers.
 - (a) No application to construct a new freestanding or roof-mounted personal wireless telecommunications service facility shall be approved unless the applicant demonstrates to the reasonable satisfaction of the Township that no existing personal wireless telecommunications service facility within a reasonable distance, regardless of municipal boundaries, can accommodate the applicant's needs. Evidence submitted to demonstrate that no existing personal wireless telecommunications service facility can accommodate the applicant's proposed facility shall consist of one or more of the following.

- [1] No existing facilities are located within the geographic area required to meet the applicant's coverage demands.
 - [2] Existing facilities or structures are not of sufficient height to meet the applicant's coverage demands and cannot be extended to such height.
 - [3] Existing facilities or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
 - [4] Existing facilities or structures do not have adequate space on which proposed equipment can be placed so it can function effectively and reasonably.
 - [5] The applicant's proposed antenna would cause electromagnetic interference with the antennas on the existing facility, or the antennas on the existing facility would cause interference with the applicant's proposed antenna.
 - [6] The applicant demonstrates that there are other compelling limiting factors, including but not limited to economic factors, that render existing facilities or structures unsuitable.
- (b) No telecommunications carrier or operator shall unreasonably exclude a telecommunications competitor from using the same facility or location. Upon request by the Township, the owner or operator shall provide evidence and a written statement to explain why co-location is not possible at a particular facility or site.
 - (c) If a telecommunications competitor attempts to co-locate a personal wireless telecommunications service facility on an existing or approved facility or location, and the parties cannot reach an agreement, the Township may require a third-party technical study to be completed at the applicant's expense to determine the feasibility of co-location.
 - (d) Applications for new freestanding personal wireless telecommunications facilities shall provide evidence that the facility can accommodate co-location of additional carriers.
 - (e) A telecommunications carrier who is issued a License pursuant to this Section who wishes to add, supplement, or modify the Telecommunications Facility for which the License was previously granted shall be required to obtain a new License in accordance with the procedures established by this Section, except that no new License shall be required if the additional, supplement or modification does not materially change the overall size, dimensions or appearance of the Telecommunications Facility.
 - (f) Any person who desires a License pursuant to this Section shall file an application with the Township Administrator. The application shall include the following information.
 - [1] The identity of the License Applicant, including all affiliates of the applicant.

- [2] A description of the telecommunications services that are or will be offered or provided.
 - [3] A description of the Telecommunications Facility(ies).
 - [4] A description of the transmission medium that will be used by the License to offer or provide telecommunications services.
 - [5] Preliminary engineering plans, a survey, specifications, and a network map of the Telecommunications Facility to be located within the Township, all in sufficient detail to identify:
 - (a) The location and route requested for the applicant's proposed Telecommunications Facility.
 - (b) The location of all antennas, cells and nodes for the applicant's proposed Telecommunications Facility.
 - (c) The location of all overhead and underground public utility, telecommunications, cable, water, sewer drainage and other facilities in the public way along the proposed route.
4. The specific trees, structures, improvements, facilities and obstructions, if any, that the applicant proposes to temporarily or permanently remove, relocate or alter.
 5. Federal requirements. All personal wireless telecommunications facilities shall meet the current standards and regulations of the FAA, the FCC, and any other agency of the Federal Government with the authority to regulate personal wireless telecommunications service facilities. Failure to meet such revised standards and regulations shall constitute grounds for revocation of Township approvals and removal of the facility at the owner's expense.
 6. Safety Standards. All personal wireless telecommunications facilities shall conform to the requirements of the International Building Code and National Electrical Code, as applicable.
 7. Third Party Review.
 - (a) Telecommunications carriers use various methodologies and analysis tools, including geographically based computer software, to determine the specific technical parameters of facilities, such as expected coverage area, antenna configuration and topographic constraints that affect signal paths. In certain instances there may be a need for expert review by a third party of the technical data submitted by the provider. The Township may require such a technical review to be paid for by the applicant for a telecommunications facility. The selection of a third-party expert may be by mutual agreement between the applicant and the Township or at the discretion of the Township, with a provision for the applicant and interested parties to comment on the proposed expert and review its qualifications. The expert review is intended to be a site-specific review of technical aspects of the facilities and not a subjective review of the site selection. The expert review of the technical submission shall address the following:
 - [1] The accuracy and completeness of the submission.

- [2] The applicability of analysis techniques and methodologies.
 - [3] The validity of conclusions reached.
 - [4] Financial statements prepared in accordance with generally accepted accounting principles demonstrating the applicant's financial ability to construct, operate, maintain, relocate and remove the telecommunications facilities.
 - [5] Information to establish the applicant's technical qualifications, experience and expertise regarding the telecommunications facilities and telecommunications services described in the application.
 - [6] Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the telecommunications facilities and to offer or provide the telecommunications services.
 - [7] Information to establish that the telecommunications facility meets the current standards and regulations of any agency of the federal government with the authority to regulate telecommunications facilities.
 - [8] Information to establish that the proposed telecommunications facility conforms to the requirements of the International Building Code and National Electrical Code, as applicable.
 - [9] Any specific technical issues designated by the Township.
- (b) Based on the results of the third-party review, the Township may require changes to the application for the facility that comply with the recommendation of the expert.

D. License Agreement.

1. A License Agreement entered into pursuant to this Section shall include the following provisions:
 - (a) The term shall not exceed 25 years.
 - (b) The following conditions shall apply to the issuance of site-specific licenses for:
 - [1] Small Cell Equipment.
 - [i] The proposed installation must not be in excess of the height of the existing pole, before the installation, plus six feet.
 - [ii] The proposed installation shall be constructed, finished, painted and otherwise camouflaged, in conformance with best available stealth technology methods, so as to blend in compatibility with its background and so as to minimize its visual impact on surrounding properties.

- [iii] The proposal must include an Engineer's Certification verifying the structural integrity of the pole.
 - [iv] The placement of equipment cabinets along with any small cell equipment installation must conform to the following requirements:
 - [A] For sites located within nonresident zones, no pole-mounted small cell equipment may project beyond the side of the pole more than 30 inches.
 - [B] Except for in a Flood Zone, no ground-mounted small cell equipment may exceed seven feet in height, occupy more than 36 square feet of ground area, be located more than 15 feet from the existing pole, may comply with required sight triangles, sight distance and breakaway design in accordance with local ordinance and the American Association of State Highway and Transportation Officials (AASHTO). However, the applicant may seek relief from this requirement from the Zoning Board of Adjustment pursuant to N.J.S.A. 40:55D-70(d)(1).
 - [v] No small cell equipment shall be placed within 500 feet of an existing small cell equipment installation. This shall not preclude the co-location of two such facilities on the same pole, or within the same vault.
 - [vi] The cumulative size of a small cell equipment installation for any one site shall not exceed seventeen (17) cubic feet.
- (c) Wireless Poles.
- [1] Wireless poles are not permitted in residential zones that, as of the date of adoption of this ordinance, do not have wooden utility poles of any kind already installed. However, the applicant may seek relief from this requirement from the Zoning Board of Adjustment pursuant to N.J.S.A. 40:55D-70(d)(1).
 - [2] Wireless poles shall be the same type (i.e. wooden, steel) as the existing utility poles located on either side of it and shall not be higher than 115% of the average height of the existing utility poles within 500 feet, but in no event higher than 60 feet in height, and no antenna or attachment shall extend more than six feet above said utility pole. If there are no existing utility poles in the Public Right-of-Way within 500 feet of the proposed utility pole, the carrier shall submit a plan for a proposed stealth structure for review and approval of the Township Engineer.
 - [3] Wireless poles are not permitted in areas with underground utilities. However, the applicant may seek relief from this requirement from the appropriate authorities.

- [4] The proposed wireless pole shall be constructed, finished, painted and otherwise camouflaged, in conformance with best available stealth technology methods, so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties.
- [5] No wireless pole may be spaced less than 500 linear feet from another existing pole or proposed wireless pole that is capable of supporting small cell equipment. However, this requirement may be administratively waived for wireless poles that are proposed to be placed within nonresidential zones where the proposal is determined to be aesthetically consistent with the surrounding streetscape.
- [6] If the wireless pole or facility is located in the Historic District it is subject to §415.20K below.
- [7] The wireless pole cannot exceed 60 Feet. However, the applicant may seek relief from this requirement from the Zoning Board of Adjustment.
- [8] The wireless pole cannot be placed in such a way that it encroaches upon or blocks sight triangles as required by §4—33.2 of the Neptune Code of Ordinances.
- [9] The applicant must demonstrate that the proposed small cell equipment cannot be co-located.

E. Application Process.

- 1. Location. Small cell facilities that cannot be co-located are permitted in Township right-of-way, upon facilities in these rights-of-way and on public easements owned by the Township under the following priorities:
 - (a) First, on a Township-owned utility pole, which shall be removed and replaced with a pole designed to contain all antennas and equipment within the pole to conceal any ground-based support equipment and ownership of which pole is conveyed to the Township.
 - (b) Second, a Township-owned utility pole with attachment of the small cell facilities in a configuration approved by the Township.
 - (c) Third, on a third-party owned utility pole (with the consent of the owner thereof), with attachment of the small cell facilities in a configuration approved by the Township.
 - (d) Fourth, on a traffic signal pole or mast arm in a configuration approved by the Township or County, or in the case of a Department of Transportation Facility, approved by the DOT.

- (e) Fifth, on a freestanding or ground-mounted facility which meets the definition of and requirements for an alternative tower facility in a location and configuration approved by the Township.
 - 2. Survey. Every applicant must provide the Township with a current professional survey, signed and sealed by a licensed PLS in the State of New Jersey and completed within 6 months of application, demonstrating that the area on which it proposes to place small cell equipment and/or a wireless pole is located within the Public Right-of-Way. The applicant must also provide easting and northing coordinates in state plane for inclusion in a GIS inventory.
 - (a) Small Cell Equipment. The Township Engineer shall review all applications and make a recommendation to the Township Committee as to whether a License should be issued.
 - (b) Wireless Poles. The Township Engineer shall review all applications and make a recommendation to the Township Committee as to whether a License is in compliance with the terms of this §415.20 and the License Agreement and may therefore be issued.
 - 3. Any denial of a License must be in writing and provide the facts upon which such a denial is based.
 - 4. An accompanied by a payment of a fee of \$500.00 for up to five (5) small wireless facilities with an additional \$100.00 for each small wireless facility beyond five (5). An application for a License under this Section for the installation of a new structure shall be accompanied by a payment of a fee of \$1,000.00 for up to five small wireless facilities with an additional \$100.00 for each small wireless facility beyond five (5).
 - 5. Pursuant to N.J.S.A. 54:30A-124, the Township shall recover reasonable fees for actual services incurred in the review of all applicants under this Section. The applicant shall make a deposit of \$2,000.00 toward anticipated municipal expenses which shall be placed in an escrow account. If said escrow account contains insufficient funds to enable the Township to perform its review, the Chief Financial Officer shall provide the applicant a notice of insufficient balance. In order for review to continue, the applicant shall, within 30 days, post a deposit to the account in an amount to be mutually agreed upon.
 - 6. An applicant, upon receiving a License for the placement of small cell equipment or a wireless pole in the Public Right-of-Way, may proceed in requesting all other necessary street opening permits and building permits and, upon receiving the same, may proceed with construction. Applicants must comply with all other State and Federal Laws, Rules and Regulations along with any other applicable local ordinances.
 - 7. Certificate of Incorporation. An applicant, in order to be granted the rights and privileges of the use of the Public Right-of-Way must produce evidence of an original Certificate of Incorporation and/or a Certificate of Good Standing from the Secretary of State of New Jersey.
- F. Application Review/Time Frames.
- 1. Installation of new small cell facilities.

- (a) Absent an agreement to the contrary between the Township and the applicant that is confirmed by email or other writing, the Township shall grant or deny applications for small cell facility within the right-of-way not later than ninety (90) days after the date of filing by an applicant of a complete application.
 2. Co-location of small cell facilities.
 - (a) Absent an agreement to the contrary between the Township and the applicant that is confirmed by email or other writing, the Township shall grant or deny applications to co-locate or to replace or modify any portion of a small wireless facility on or associated with an existing wireless support structure not later than sixty (60) days after the date of filing by an applicant of a complete application.
 3. Removal of small cell facilities.
 - (a) The Township shall act on request to remove Wireless Support Structures associated with small wireless facilities from the right-of-way typical to the review time frames for the general right-of-way authorization required for this activity, and subject to Paragraph L of this Ordinance.
 4. Eligible Facilities Request.
 - (a) The Township shall act on an Eligible Facilities Request in accordance with 47 C.F.R. §1.40001 not later than sixty (60) days after the date of filing by an applicant of a complete application.
 5. Applications to deploy small wireless facilities at multiple locations or a mix of preexisting and new structures must be acted upon within ninety (90) days after the date of filing by an applicant of a complete application.
 6. Completeness. Within ten (10) business days after receiving an application the Township will determine and notify the applicant whether the application is complete; or if an application is incomplete, the Township shall specifically identify the missing information.
- G. Assignment or Transfers of Small Cell Facility Licenses. Ownership or control of a License issued pursuant to this Section may not, directly or indirectly, be transferred, assigned or disposed of by sale, lease, merger, consolidation or other act of the Grantee, by operation of law or otherwise, without the prior consent of the Township of Neptune as expressed by resolution.
 - H. General Indemnification of Township in Connection with Telecommunications Facilities. Each License Grantee shall indemnify and hold the Township and its officers, employees, agents and representatives harmless from and against any and all damages, losses and expenses, including reasonable attorneys' fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the Grantee or its affiliates, officers, employees, agents, contractors or subcontractors in the construction, operation, maintenance, repair or removal of its telecommunications facilities, and in providing or offering telecommunications services over the facilities, whether such acts or omissions are authorized, allowed or prohibited by this Section or by a License Agreement made or entered into pursuant to this Section.
 - I. Revocation or Termination of License.

1. The Township may revoke a License granted under this Section for the following reasons:
 - (a) Construction or operation without a License.
 - (b) Construction or operation at an unauthorized location.
 - (c) Unauthorized substantial transfer of control of the Grantee.
 - (d) Unauthorized assignment of a License.
 - (e) Unauthorized sale, assignment or transfer of Grantees assets, or a substantial interest therein.
 - (f) Misrepresentation or lack of candor by or on behalf of a Grantee in any application to the Township.
 - (g) Abandonment of the Telecommunications Facility. A telecommunications facility shall be deemed “abandoned” if it is either disconnected from power service or unused for greater than six (6) months. Abandoned telecommunications facilities shall be removed by the Owner/Grantee. Should the Owner/Grantee fail to remove the telecommunications facility, the Township may do so at its option, and the costs thereof shall be a charge against the Owner/Grantee.
 - (h) Insolvency or bankruptcy of the Grantee.
 - (i) Material violation of the Township’s Revised General Ordinances.
2. In the event that the Township believes that grounds exist for the revocation of a License, it shall give the Grantee written notice of the apparent violation or noncompliance, providing a statement of the nature and general facts of the violation or noncompliance, and providing the Grantee a reasonable period of time, not exceeding thirty (30) days to furnish evidence:
 - (a) That corrective action has been or is being actively and expeditiously pursued to remedy the violation or noncompliance.
 - (b) That rebuts the alleged violation or noncompliance.
 - (c) That it would be in the public interest to impose some penalty or sanction less than revocation.

J. Notification Required.

1. Any telecommunications carrier who desires to change existing use, construct, install, operate, maintain or otherwise locate a telecommunications facility in the Township shall provide notice to property owners certified by the Township Administrator to be within 200 feet of the proposed telecommunications facility.
2. Notice shall be given to the property owner by:

- (a) Serving a copy thereof on the property owner as shown on the current certified tax list, or his or her agent in charge of the property; or
 - (b) Mailing a copy thereof by certified mail and regular mail to the property owner at the address as show on the said current certified tax list, and service by mailing shall be deemed complete upon deposit with the United States Postal Service.
- 3. Notice pursuant to this Section shall state the identity of the telecommunications carrier; a description of the telecommunications services that are or will be offered or provided; a description of the location(s) of any telecommunications facilities; and a description of the telecommunications facilities to be installed and the location of the telecommunications facilities. The notice shall also advise that a copy of the applicant's application is on file with the Township Administrator and may be reviewed by the public.
- 4. Such other and further information as may be required by the Township Administrator,
- 5. In the case of an application that seeks to construct, install, operate, maintain or otherwise locate a telecommunications facility or equipment on any property owned or controlled by the County, including but not limited to a County right-of-way, the applicant shall also provide notice to and obtain a permit from the County authorizing the placement of such telecommunications facility on any such property or right-of-way.
- 6. This Section shall be in addition to and not in lieu of any notice provisions set forth in Statute, Rule or Regulation.

K. Historic District.

- 1. All applications for installation of any equipment governed by this Ordinance that is in the historic district must comply with all Federal, State and Local Laws regulating the historic districts, but as long as such installation is in the Public Right-of-Way, it is not subject to review and issuance of a Certificate of Appropriateness by the Historic Preservation Commission. Nevertheless, this Section may not be construed to limit the Township's authority to enforce Historic Preservation Zoning Regulations consistent with the preservation of local zoning authority under 47 U.S.C. §332(c)(7), the requirements for facility modifications under 47 U.S.C. §1455(a) or the National Historic Preservation Act of 1966 (54 U.S.C. §300101 *et seq.*) and the regulations adopted to implement those laws.
 - (a) As a condition for approval of a new small wireless facility or new wireless support structure in the historic district with placement in the Public Right-of-Way, the Township in its review of the application may use a consultant to address design and aesthetic standards that should be followed to minimize the negative impact to the aesthetics in the historic district. The standard for review for aesthetic purposes is that any aesthetic requirements be reasonable; that is, technically feasible and reasonably directed to avoid or remedy the intangible public harm of unsightly or out of character deployments. Aesthetic requirements shall be consistent with that applied to similar infrastructure deployments and are no more burdensome than those which apply to other types of infrastructure deployments.

L. Removal, Relocation or Modification of a Communications Facility in the Right-of-Way.

1. Notice. Within 90 days following written notice from the Township, a Grantee shall, at its own cost and expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any Telecommunications Facility with the Public Right-of-Way whenever the Township has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance or installation of any Township improvement in or upon the operations of the Township in or upon the Public Right-of-Way, or pursuant to any redevelopment plan made pursuant to the Municipal Land Use Law contained in N.J.S.A. 40:55D, or any Township resolution that approves any redevelopment plan for work that is performed by a private company other than the Township. The Township shall apply the same standards to all utilities in the Public Right-of-Way.
2. Emergency Removal or Relocation of Facilities. The Township retains the right and privilege to cut power to or move any Telecommunications Facility located with the Public Right-of-Way of the Township, as the Township may determine to be necessary, appropriate or useful in response to any public welfare emergency or safety emergency. If circumstances permit, the Township shall notify the Grantee an opportunity to move its own facilities prior to cutting power to or removing the Telecommunications Facility, and in all cases shall notify the Grantee after cutting power to or removing the Telecommunications Facility as promptly as reasonably possible.
3. Structural Reconditioning, Repair and Replacement. From time to time the Township may paint, recondition or otherwise improve or repair the Township poles in a substantial way ("Reconditioning Work"). The Grantee shall reasonably cooperate with the Township to carry out Reconditioning Work activities in a manner that minimizes interference with the Grantee's approved use of the facility.
 - (a) Prior to commencing Reconditioning Work, the Township will use reasonable efforts to provide the Grantee with at least 60 days prior written notice. Upon receiving that notice, it shall be the Grantee's sole responsibility to provide adequate measures to cover, remove or otherwise protect the Grantee's Telecommunications Facility from the consequences of the Reconditioning Work, including but not limited to paint and debris fallout. The Township reserves the right to require the Grantee to removal all of the Grantee's Telecommunications Facility from the Township's Poles and surrounding premises during Reconditioning Work, provided the requirement to remove the same is contained in the written notice required by this Subsection. All costs associated with the protection measures, including temporary removal, shall be the sole responsibility of the Grantee. The Township will provide the Grantee with a date by which its equipment must be protected or removed. The Grantee may request a modification of the Township's procedures for carrying out Reconditioning Work in order to reduce the interference with Grantee's operation of its Telecommunications Facility. If the Township agrees to the modification, the Grantee shall be responsible for all reasonable incremental costs related to the modification.
 - (b) If the Township Poles need to be replaced ("Replacement Work"), the Township shall provide the Grantee with at least 60 days written notice to remove its Telecommunications Facilities. The Township shall also promptly notify the Grantee when the Township's Poles have been replaced and the Grantee may reinstall its equipment. During the Redevelopment Work, the Grantee may maintain a temporary Telecommunications Facility on the property, or after approval by the Township, in any land owned or controlled by the Township in the vicinity of the property. If the property will not accommodate the Grantee's temporary Telecommunications Facility, or if the parties cannot agree on a temporary location, the Grantee, at its sole option, shall have the right to suspend the

applicable permit, until the replacement Pole is installed, upon 30 days written notice to the Township.

(c) If the Township Poles need to be repaired due to storm or other damage (“Repair Work”), the Township shall notify the Grantee to remove its Telecommunications Facilities as soon as possible. In the event of an emergency, the Township shall contact the Grantee by telephone at its emergency contact of record upon or prior to removing the Grantee’s equipment. Once the Township’s Poles have been replaced or repaired, the Township will promptly notify the Grantee that it can reinstall its equipment. During the Township’s Repair Work, the Grantee may maintain a temporary Telecommunications Facility on the property, or after approval by the Township, on any land owned or controlled by the Township in the vicinity of the property. All costs associated with any removal or protection of the Telecommunications Facilities shall be the sole responsibility of the Grantee, except to the extent caused by third parties or the Township.

4. Abandonment. Personal wireless telecommunications facilities which are abandoned by nonuse, disconnection of power service, equipment removal or loss of lease for greater than six months shall be removed by the facility owner. Should the owner fail to remove the facilities after 90 days written notice, the Township may do so at its option, and the costs thereof shall be a charge against the owner and recovered by certification of the same to the Township’s Tax Collector for collection as taxes. If an owner wishes to begin utilizing abandoned equipment again, it must submit a new application pursuant to §415-20.
5. Violation of Ordinance or License Agreement. Should the Township determine that the Grantee is in violation of this Ordinance or License Agreement, it shall provide the Grantee with 30 days’ notice to cure. Should the Grantee fail to cure within 30 days of receipt of said Notice to Cure or any extended time agreed upon by the parties, the Township may terminate the License Agreement pursuant to Paragraph I of this Ordinance. Any termination shall require the Grantee to remove all Telecommunications Facilities from the subject site within 90 days of written Notice of Termination, and removal of said equipment at the Grantee’s sole cost and expense. Should the Owner/Grantee fail to remove the facilities, the Township, at its own option, may remove said facilities and the cost shall be charged against the Owner/Grantee and recovered by certification of the same to the Township’s Tax Collector for collection as taxes.

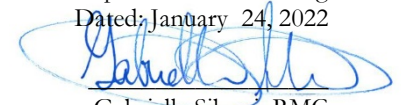
All Ordinances or parts of Ordinances that are inconsistent herewith are repealed, but only to the extent of such inconsistency.

The amended Ordinance shall become effective immediately upon its passage and the publication as required by law.

Motion/ Second	Roll Call To Adopt On First Reading				
		YAY	NAY	ABSTAIN	ABSENT
Second Motion	Dr. Michael Brantley	X			
	Keith Cafferty	X			
	Robert Lane, Jr.	X			
	Tassie D. York	X			
	Nicholas Williams	X			

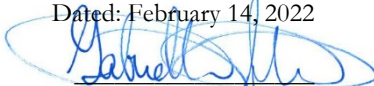
Adopted on First Reading

Dated: January 24, 2022




Gabriella Siboni, RMC
Township Clerk

Motion/ Second	Motion to Amend Ordinance to Change Twenty (20) Cubic feet to Seventeen (17) Cubic feet on Page 8 Section [vi]				
		YAY	NAY	ABSTAIN	ABSENT
	Dr. Michael Brantley				X
Second	Keith Cafferty	X			
Motion	Robert Lane, Jr.	X			
	Tassie D. York				X
	Nicholas Williams	X			

Amended
Dated: February 14, 2022

Gabriella Siboni, RMC
Township Clerk

Motion/ Second	Motion to Table to February 28, 2022 Committee Meeting				
		YAY	NAY	ABSTAIN	ABSENT
	Dr. Michael Brantley				X
Motion	Keith Cafferty	X			
Second	Robert Lane, Jr.	X			
	Tassie D. York				X
	Nicholas Williams	X			

Tabled to February 28, 2022
Dated: February 14, 2022

Gabriella Siboni, RMC
Township Clerk

Motion/ Second	Roll Call To Adopt On Second and Final Reading				
		YAY	NAY	ABSTAIN	ABSENT
	Dr. Michael Brantley				
	Keith Cafferty				
	Robert Lane, Jr.				
	Tassie D. York				
	Nicholas Williams				

Adopted on Second Reading
Dated:

Gabriella Siboni, RMC
Township Clerk