

RESOLUTION OF THE TOWNSHIP OF IRVINGTON, NJ

No. **DPW 17-0228-8**

Date of Adoption **FEBRUARY 28, 2017**

APPROVED AS TO FORM AND LEGALITY ON THE BASIS OF FACTS SET FORTH BY

Legislative Research Officer

PRESENTED BY COUNCIL MEMBER **FREDERIC** SECONDED BY **JONES**

WHEREAS, New York SMSA Limited Partnership d/b/a/ Verizon Wireless, ("Verizon Wireless"), is a provider of commercial mobile service subject to regulation by the Federal Communications Commission; and

WHEREAS, Verizon Wireless has entered into agreements with parties that have the lawful right to maintain poles in the public right-of-way pursuant to which Verizon Wireless may use such poles erected within the public right-of-way in the Township of Irvington; and

WHEREAS, New Jersey law permits such use provided that there is consent of the relevant municipality;

NOW THEREFORE BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON, COUNTY OF ESSEX, STATE OF NEW JERSEY THAT:

1. Permission and authority are hereby granted to Verizon Wireless and its successors and assigns, Verizon Wireless, and its successors and assigns, to use poles erected by parties that have the lawful right to maintain poles within the public right-of-way in the Township of Irvington, subject to the following:

A. Verizon Wireless, and its successors and assigns, shall adhere to all applicable Federal, State, and Local laws regarding safety requirements related to the use of the public right-of-way.

B. Verizon Wireless, and its successors and assigns, shall comply with all applicable Federal, State, and Local laws requiring permits prior to beginning construction, and shall obtain any applicable permits that may be required by the Township of Irvington.

C. Such permission be and is hereby given upon the condition and provision that Verizon Wireless, and its successors and assigns, shall indemnify, defend and hold harmless the Township of Irvington, its officers, agents, and servants, from any claim of liability or loss or bodily injury or property damage resulting from or arising out of the acts or omissions of Verizon Wireless or its agents in connection with the use and occupancy poles located within the public right-of-way, except to the extend resulting from the acts or omissions of the Township of Irvington.

D. Verizon Wireless shall, at its own costs and expense, maintain commercial general liability insurance with limits not less than \$1,000,000 for injury to or death of one or ore persons in any one occurrence and \$500,000 for damage or destruction to property in any one occurrence. Verizon Wireless shall include the Township of Irvington as an additional insured.

E. Verizon Wireless shall be responsible for the repair of any damage to paving, existing utility lines, or any surface or subsurface installations, arising from its construction, installation or maintenance of its facilities.

F. Notwithstanding any provision contained herein, neither the Township of Irvington nor Verizon Wireless shall be liable to the other for consequential, incidental, exemplary, or punitive damages on account of any activity pursuant tot his instrument.

G. This instrument shall be adopted on behalf of the Township of Irvington by the Municipal Council of the Township of Irvington and attested to by the Township of Irvington Clerk who shall affix the Township of Irvington Seal thereto.

H. The permission and authority hereby granted shall continue for the same period of time as the grant to parties whose poles Verizon Wireless is using.

RECORD OF COUNCIL VOTE

X = Indicates Vote N.V. = No Vote A.B. = Absent

COUNCIL MEMBER	YES	NO	N.V.	A.B.	COUNCIL MEMBER	YES	NO	N.V.	A.B.
BURGESS, 1ST VICE PRESIDENT	X				INMAN	X			
COX				X	JONES, 2ND VICEPRESIDENT	X			
FREDERIC	X				LYONS, PRESIDENT	X			
DR. HUDLEY				X					

PRESIDENT OF COUNCIL *[Signature]* MUNICIPAL CLERK *[Signature]* DATE **FEBRUARY 28, 2017**

I hereby certify that the foregoing is a true copy of a Resolution duly adopted by the Municipal Council. In witness whereof I have hereunto set my hand and the Corporate Seal of the Township of Irvington.

MUNICIPAL CLERK *[Signature]* DATE **FEB 28 2017**

ADMINISTRATOR ☒ ASSESSOR ☐ BLDG ☐ CFO ☐ COLLECTOR ☐ COURT ☐ EDGO ☐ ENGINEER ☐ FIRE ☐ CF ☐ HEALTH ☐ HOUSING ☐ INIC ☐ JUDGE ☐ LEGAL ☐ LIBR ☐ LICEN ☐ MAYOR ☐ NPP ☐ OCDP ☐ PARKS ☐ PAYROLL ☐ PUBLIC SAFETY ☐ DIR ☐ PUBLIC WORKS ☒ PURCHASING ☐ SEC~PB/ZBA ☐ TRAFFIC ☐ ZONING~OFF ☐ DLGS ☐ GNCD ☐ OTHER(S): _____