

BOROUGH OF DUNELLEN
ORDINANCE # 2024-06

The following ordinance was Introduced for first reading on March 18, 2024. A second reading, public hearing and adoption is being held at 7:00 p.m. in the Dunellen Borough Municipal Building, 355 North Avenue, Dunellen, New Jersey, on April 1, 2024, and copies of this Ordinance have been posted on the public bulletin board prior to the date for second reading and final passage and copies of this Ordinance have been available at the Office of the Borough Clerk for any interested members of the public.

AN ORDINANCE TO AMEND ORDINANCE # 2024-05 OF THE BOROUGH OF DUNELLEN, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY, AUTHORIZING EXECUTION OF A RIGHTS-OF-WAY AGREEMENT BETWEEN THE BOROUGH OF DUNELLEN AND COMCAST OF PLAINFIELD, LLC, TO PERMIT THE INSTALLATION, USE AND MAINTENANCE OF CABLE TELEVISION SERVICE AND TELECOMMUNICATIONS FACILITIES WITHIN PUBLIC RIGHTS OF WAY FOR PURPOSES OF PROVIDING CABLE TELEVISION AND TELECOMMUNICATION SERVICES

WHEREAS, Comcast of Plainfield, LLC (hereinafter referred to as "Comcast" is a cable television company with offices located 800 Rahway Avenue, Union, New Jersey, 07083, that is subject to the jurisdiction of the New Jersey Board of Public Utilities ("the Board"); and

WHEREAS, in accordance with and pursuant to the New Jersey Cable Telecommunication Act (N.J.S.A. 48:5A-1 et seq), Comcast has applied to the Board for a system-wide franchise authorizing Comcast to construct, operate and maintain a cable television system in the Borough of Dunellen (the "Borough"); and

WHEREAS, in accordance with N.J.S.A. 48:5A-3(r), this Ordinance evidences that Comcast has proposed to place consumer video, cable, and telecommunications plant in the Borough; and

WHEREAS, Comcast has requested the Borough's approval to occupy public rights-of-way within the Borough for the purpose of constructing, installing, operating, repairing, maintaining, and replacing its cable television systems; and

WHEREAS, the Borough is authorized to enter into a Rights-of-Way Use Agreement (the "Use Agreement") with Comcast pursuant to N.J.S.A. 48:17-10 and N.J.S.A. 45:5A-25. 1(b); and

WHEREAS, it is in the best interests of the Borough and its citizens for the Borough to grant consent to Comcast to occupy the public rights-of-way within the Borough for this purpose; and

WHEREAS, the Borough's consent is and shall be conditional upon Comcast's obtaining the required authorization from the Board to construct, operate, and maintain a cable television system within the Borough; Comcast's compliance with all existing and future applicable ordinances; and Comcast's entering into a Use Agreement with Borough to indemnify and hold the Borough harmless as to all claims and liability resulting from any injury or damage caused by Comcast which may arise from the construction, installation, operation, repair, maintenance, disconnection, replacement, and removal of its

cable television system within certain public rights-of-way and its provision of liability insurance coverage for personal injury and property damage; and

WHEREAS, THIS Ordinance authorizes Comcast to operate within the boundaries of the Borough, and Comcast will apply for permits as necessary to construct, install, operate, repair, maintain or replace its cable television system in the Borough.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Dunellen, County of Middlesex, State of New Jersey, as follows:

1. The Borough of Dunellen hereby gives consent to Comcast of Plainfield, LLC to occupy the public rights-of-way within the Borough for the purpose of construction, installation, operation, repair, maintenance, and replacement of a cable television system for a period of fifteen (15) years from the date that the Board approves Comcast's application for a system-wide franchise. Thereafter, the term of the Use Agreement shall be renewed automatically for three (3) successive terms often (10) years each on the same terms and conditions as set forth in the Use Agreement, unless either party notifies the other of its intention not to renew not less than thirty (30) calendar days prior to the commencement of the relevant renewal term.
2. The Borough's granted permission is conditioned upon Comcast securing the required authorization from the New Jersey Board of Public Utilities to construct, operate, and maintain a cable television system in the Borough.
3. The Borough's granted permission is further conditioned upon Comcast entering into a Use Agreement with the Borough and providing liability and property damage insurance coverage.
4. The Mayor and Borough Clerk are hereby authorized to execute and attest to, respectively, all documents including the Use Agreement in substantially similar form as attached hereto.
5. If any section paragraph, subdivision clause, sentence, phrase, or provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.
6. A copy of this Ordinance shall be available for public inspection at the offices of the Borough Clerk.
7. This Ordinance shall take effect after adoption at a second reading and publication as required by law.

Approved April 1, 2024