

**TOWNSHIP OF ROCKAWAY
COUNTY OF MORRIS, NEW JERSEY**

**ORDINANCE NO. 23-06
AN ORDINANCE MODIFYING THE CODE OF THE TOWNSHIP
OF ROCKAWAY TO REVISE CHAPTER 31 “SMALL
CELL INSTALLATIONS”**

WHEREAS, the Township of Rockaway is aware that certain technological developments have made access to its public rights-of-way desirable by certain telecommunications and utility companies for the placement of antennas, cabinets, cabling, small wireless facilities and other communication devices and associated equipment; and

WHEREAS, in 2020, the Township adopted an ordinance to regulate the installation in the public right-of-way of small wireless facilities, as the term is defined in 47 C.F.R. 1.6002, and also in section 31-1 Definitions section of said ordinance as a “Small Cell Installation”; and

WHEREAS, the Township has decided to revise said ordinance so that it encompasses facilities installed by cable television service providers and other entities that contemplate usage of the Township rights-of-way for their communications facilities and infrastructure; and

NOW THEREFORE, BE IT ORDAINED as follows:

Section 1. The Code of the Township of Rockaway is hereby supplemented by the following changes to Chapter 31 Small Cell Installations:

The title of Chapter 31 is revised to read as follows:

Chapter 31 *Communications Facilities in the Right-of-Way*

Section 31-1 is revised with the addition of the following definition:

Strand-Mounted Antenna: An antenna with a maximum volume of 1.5 cubic feet, including any ancillary components of said antenna, which is attached to communication wiring that is mounted to and which runs between utility poles or similar structures in the right-of-way and which are intended to support such communications wiring.

Section 31-2 is revised to read as follows:

31-2 *Access to Right-of-Way; Right-of-Way Agreements.*

(A) No person shall operate or place any type of pole, pole mounted antenna, strand mounted antenna, antenna, wiring, cable pole mounted cabinet or ground level cabinet, or cabinet in any other portion of the municipal right-of-way without first entering into a right-of-way agreement pursuant to the provisions of this section

(B) The terms of said right-of-way agreement shall include:

- (1) A term not to exceed 15 years;
- (2) Reasonable insurance requirements;
- (3) Fine for unauthorized installations;
- (4) A reference to the siting standards as set forth in this chapter; and
- (5) Any other items which may reasonably be required.
- (6) Notwithstanding the foregoing, the following applies to any right-of-way agreement entered into pursuant to this chapter:

- a) The terms and conditions of a right-of-way agreement between the Township and a cable television service provider for the installation of cabinets and antennas in the municipal right-of-way may be modified from the above conditions if any of the following apply:
 - i. Such modification is required by the New Jersey Board of Public Utilities
 - ii. Such modification is required by any other local, state or federal agency having jurisdiction over the provision of cable services and laws and regulations pertaining to the installation of cable television infrastructure pursuant to same.
- b) In such instances, at minimum, a right-of-way agreement shall include:
 - i. An exhibit listing all installed facilities, located by nearest address and coordinates
 - ii. A basic description of the equipment installed along with a photo of the equipment after installation.
- c) It is the intention of this chapter that any right-of-way agreement between the Township and a cable television service provider shall not regulate the installation of cabling and communication wiring. Communications cabling and wiring shall be regulated by the applicable franchise issued to the cable television service provider pursuant to the New Jersey Cable Television Act.

Section 31-4 Subsection A is revised to read as follows:

A. No pole, antenna, wiring, cable, or cabinet shall be installed within the municipal right-of-way without the issuance of a right-of-way permit. The right-of-way permit and siting and design standards of this section are intended to apply to all poles, antennas, wires, cable, and cabinets, whether installed by a wireless service provider, a cable television service provider, a telecommunications company or any other person or company that installs or intends to install and maintain poles, wiring, antennas, cable, and/or cabinets in the municipal right-of-way.

Section 31-4 is revised to include the following subsection:

E. Strand Mounted Antenna Siting Standards. Strand mounted antennas and their components shall comply with the following:

- 1) Located between two utility poles on communication wiring that is parallel to the ground and the edge of the right-of-way.
- 2) Not located on communication wiring that crosses the right-of-way.
- 3) Located entirely within the limits of the right-of-way.
- 4) Placed as close as possible to the nearest utility pole, and in no event more than five feet from the pole unless a greater distance is technically necessary or is required by the utility pole owner for safety clearance.
- 5) Not exceed a maximum volume of 1.5 cubic feet, including antenna and supplementary equipment
- 6) No strand-mounted antenna or component shall exceed 18 inches in diameter
- 7) No portion of a strand mounted antenna shall extend greater than a distance of 12 inches measured from the wiring on which it is mounted.
- 8) Shall be consolidated to the greatest extent technically feasible

Section 31-6 is revised to read as follows:

31-6 Waiver

The Township Council may, by resolution, waive any siting standard set forth herein where the applicant demonstrates that strict enforcement of said standard:

- (1) Will prohibit or have the effect of prohibiting any interstate or intrastate telecommunications service pursuant to 47 U.S.C. § 253(a);
- (2) Will prohibit or have the effect of prohibiting personal wireless service pursuant to 47 U.S.C. § 332(c)(7)(B)(i)(II); or
- (3) Will violate any requirement set forth by the Federal Communications Commission Order entitled “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment,” WT Docket No. 17-79; WC Docket 17-84.
- (4) Will violate or conflict with any applicable provision of P.L. 1972 c. 186 the “Cable Television Act”, as codified in N.J.S.A. 48:5A-1 et seq.
- (5) Will violate or conflict with the applicable terms and provisions of any duly effective local system wide franchise for the provision of cable television service, as the term is defined in N.J.S.A. 48:5A-3 Definitions.
- (6) Will violate or conflict with any applicable provision section 14:18 of the New Jersey Administrative Code which pertains to the provision of cable television service.
- (7) Will violate or conflict with any other applicable state or federal law or regulation which pertains to the installation and operation of communications facilities in the public rights-of-way, regardless of whether such facilities are part of a wireless communications, cable television or landline telephonic system.

Section 31-9 is revised to include the following subsection:

F. Notwithstanding any franchise or right-of-way, agreement to the contrary, all antennas, wiring, cable, poles and/or cabinets placed or proposed to be placed within the municipal right-of-way by a utility regulated by the Board of Public Utilities, or by any other entity

with legal access to the municipal right-of-way, including cable television service providers and providers of landline communications services, shall be subject to the standards and procedures set forth in this chapter.

Section 2. Repealer.

All ordinances or parts of ordinances inconsistent or in conflict with this Ordinance are hereby repealed as to said inconsistencies and conflicts.

Section 3. Severability.

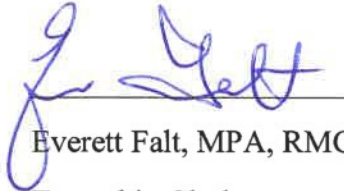
If any section, part of any section, or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this ordinance. The governing body of the Township of Rockaway declares that it would have passed the ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section 4. Renumbering.

This Ordinance may be renumbered for Codification Purposes.

Section 5. Effective Date.

This ordinance shall take effect immediately upon passage and publication according to law.



Everett Falt, MPA, RMC
Township Clerk



Council President
Howard Kritz



Joe Jackson
Mayor

APPROVED 
VETO ___ (SEE ATTACHED STATEMENT)

ORDINANCE 23-06

INTRODUCED: FEB 14 TOWNSHIP COUNCIL REGULAR MEETING

MOTION: QUINN

SECOND: SALBERG

ROLL CALL AYE FRIEDLANDER, D. BROOKES, NOON, SALBERG, SACKETT,
R BROOKES, VP QUINN, PRESIDENT KRITZ

NAY NONE

ADVERTISED: FEB 21, 2023

ADOPTED: FEB 28 TOWNSHIP COUNCIL REGULAR MEETING

MOTION R. BROOKES

SECOND SALBERG

ROLL CALL AYE FRIEDLANDER, NOON, SACKETT, R BROOKES, SALBERG, VP
QUINN, PRESIDENT KRITZ

NAY NONE

ADVERTISED MARCH 6, 2023