

## **ORDINANCE 2016-32**

### **AN ORDINANCE OF THE TOWNSHIP OF BARNEGAT, COUNTY OF OCEAN, STATE OF NEW JERSEY REGULATING THE STATUTORY AUTHORITY OF VERIZON NEW JERSEY INC., ITS SUCCESSORS AND ASSIGNS TO USE THE VARIOUS PUBLIC STREETS, ROADS, AVENUES, HIGHWAYS AND OTHER PUBLIC WAYS IN THE TOWNSHIP OF BARNEGAT, FOR ITS LOCAL AND THROUGH LINES AND OTHER COMMUNICATIONS FACILITIES AND PRESCRIBING THE CONDITIONS THEREOF**

**BE IT ORDAINED** by the Township of Barnegat, County of Ocean, State of New Jersey that;

**SECTION 1:** Pursuant to N.J.S.A 48:17-10, N.J.S.A 48:17-11, and N.J.S.A 48:17-12 permission and consent is hereby granted to Verizon New Jersey Inc., (the "Company"), it successors and assigns, to install, operate, inspect, maintain, repair, replace and remove its communications facilities and other transmission or process equipment, including underground facilities, such as conduits, manholes, cables, wires and all other facilities appurtenant thereto, and above-ground facilities, such as cables, wires, antennas, poles, posts supports, guys, pedestals, cable termination and distribution cabinets and all other facilities appurtenant thereto, in, through upon, along, over, under, and across all of the various public streets and ways, which include the roads, avenues, right-of-way, sidewalks, highways, bridges, waterways, and other public places, and parts thereof, throughout their entire length, and to effect the necessary street openings and lateral connections to curb poles, property lines and other facilities in the Township of Barnegat (the "Township") for said Company's local and through lines and other communications facilities in connection with the transaction of business. In the event that any public street or way where the Company has facilities is vacated by the Township, the Township agrees to reserve unto said Company the rights granted the Company by the present Ordinance; and

**SECTION 2:** All poles, posts, pedestals, cabinets or other facilities shall be located and placed back of the curb lines where shown on the official map(s) of the Township, the poles and posts, however, shall be located within eighteen (18) inches of the face of such curb line or as may otherwise be mutually agreed by both parties or required by law, or at the points or places now occupied by the poles, posts, pedestals, cabinets or other facilities of the Company, its successors and assigns, and where there are no curb lines, at other convenient points or places in, upon, along, adjacent, or across the public streets and ways as may be mutually agreed upon between the parties; and

**SECTION 3:** The Company may bury its local and through communications facilities such as cables, conduit, manholes and associated equipment, fixtures, process equipment and appurtenances within the right-of-way of the various public streets and ways and at such locations as shall be mutually agreed upon by the parties for said Company's local and through lines and communications facilities. Underground conduits and associated facilities, as aforementioned, shall be placed at least eighteen

(18) inches below the surface of said public street and ways and with the exception of lateral branches to curb poles and property lines and other facilities, the same shall generally not be constructed more than ten (10) feet from the curb line, unless obstructions make it necessary to deviate from such course or unless the parties mutually agree to another location. Manholes shall be located at such points along the line of underground conduits as may be necessary or convenient for placing, maintaining, and operating the facilities, as aforementioned, which the Company may from time to time use in connection with its underground conduit system and shall be so constructed as to conform to the cross-sectional and longitude grade of the surface so as not to interfere with the safety or convenience of persons or vehicles.

**SECTION 4:** Before proceeding with any new construction or relocation work in an area covered by this Ordinance, the Company shall give prior notice in writing thereof to the Township, through its designated representative, of its intention to perform such work. The Company shall obtain such street opening or excavation permits as may be lawfully required by any applicable ordinances regulating such openings or excavations. Any such area affected by the Company in constructing its facilities shall be restored to as good condition as it was before the commencement of work thereon. No public streets or ways shall be encumbered for a period longer than shall be reasonable to execute the work.

**SECTION 5:** The Company agrees to indemnify and save harmless the Township from and against all claims and liabilities resulting from any injury or damage to the person or property of any person, firm or corporation caused by or arising out of road conditions resulting from and negligent or faulty excavations, installation or maintenance connected with the work or equipment of said Company, and not attributable to the fault or negligence of the Township, except that if such injury or damage shall be caused by the joint or concurring negligence or fault of the Company and the Township, the same shall be borne by them to the extent of their respective fault or negligence.

**SECTION 6:** Whenever a curb line shall be established on streets where one does not now exist or where an established curb line shall be relocated in order to widen an existing street in conjunction with road construction being performed by the Township the Company shall change the location of its above-ground facilities covered by this Ordinance in accordance with applicable law, so that the same shall be back of, and adjacent to, the new curb line so long as the Township has acted in accordance with applicable law and with reasonable care in establishing the new curb line and providing notice thereof.

**SECTION 7:** Any company or corporation having legal authority to place its facilities in the public streets and ways of the Township may jointly use the Company's poles, posts, pedestals or other structures for all lawful purposes, provided the Company consents to such use, on terms and conditions acceptable to the Company and not inconsistent with the provisions of the present Ordinance.

**SECTION 8:** The Company shall provide space, to the extent available, on its poles so long as said poles are occupied by the Company and space, to the extent available, in its main conduits existing on the date of passage of this Ordinance, but not exceeding one (1) duct of standard size, for the sole benefit of the Township during the pendency of this Ordinance. Such space shall be provided for the exclusive use of the Township which use shall be limited to accommodating the wires or electrical conductors required for one-way signal control in connection with municipal police patrol, fire alarm signal control and traffic signal control systems only; but for no other uses or purposes, either alone or in conjunction therewith; nor for circuits for the supply of electrical energy for traffic or other signals; nor for wires, conductors, cable or the equivalent which provide a means of transmitting any signal to a private, commercial or residential location, and which is normally provided by a nongovernmental supplier; provided, further that no such use or attachment by the Township shall interfere with the plant or facilities of or the use thereof by the Company. All costs or expenses incurred by the Company in connection therewith shall be paid by the Township. It shall be the obligation of the Township to attach its wires to the poles or place its electric conductors in the conduits or manholes of the Company, provided that before proceeding with said work, either by itself or by a person, firm or corporation engaged to perform such work, the Township shall give the Company thirty (30) days prior notice in writing. All such work shall be performed under the supervision of said Company. The Township agrees to indemnify and save harmless the Company from and against all claims and liabilities resulting from any injury or damage to the person or property of any person, firm or corporation caused by or arising out of the Township's installation maintenance, operation or removal of wires or facilities or the Township's use or enjoyment of the Company's plant or facilities as provided under this section, except that if such injury or damage shall be caused by joint or concurring negligence of the Company and Township, the same shall be borne by them to the extent of their respective fault or negligence.

**SECTION 9:** If any or all of the said streets or ways are later taken over by the County of Ocean or the State of New Jersey, such County or State shall have such rights and privileges and be subject to the same terms, conditions and limitations of use as apply herein to the Township, provided, however, that satisfactory prior arrangements as may be necessary are made with the Township and the Company for full protection of the respective interest of each.

**SECTION 10:** The term "Township" as used in this Ordinance shall be held to apply to and include any form of municipality or government into which the Township or any part thereof may at any time hereafter be changed, annexed, or merged.

**SECTION 11:** The permission and consent hereby granted shall apply to and cover all communications facilities of the Company existing at any time, and related structures, process equipment, and appurtenances heretofore or hereafter erected, constructed, reconstructed, removed, located, relocated, replaced, maintained, repaired, or operated by the Company, its predecessors, successors, or assigns within the Township. This Ordinance shall cancel and supersede all prior consent ordinances between the Township and the Company regarding the subject matter hereof.




**SECTION 12:** This Ordinance shall continue in full force and effect for a period of ten (10) years from the date it becomes effective subject to the right of the Company to seek such changes herein as may be deemed necessary from time to time prior to the expiration of said period, said changes to be approved by the Township. The Company shall maintain its property within the township and shall comply with applicable law for the provision of safe, adequate and proper service at just and reasonable rates at and after the term of this ordinance, the Company shall safeguard the public interest in continuous and uninterrupted service within the Township.

**SECTION 13:** In the event that any provision herein shall for any reason be illegal or unenforceable under applicable law, such illegality or unenforceability shall not affect any other provisions of this Ordinance, and this ordinance shall construed as if such illegal or unenforceable provision(s) had never been contained herein.

**SECTION 14:** The Company shall pay the expenses incurred for advertising required in connection with the passage of this Ordinance, after the Company has received a bill for said advertising from the publisher. Following final passage of this Ordinance, the Township Clerk shall provide the Company with written notice thereof by certified mail. As provided by applicable law, this Ordinance, and any subsequent amendments, shall not become effective until acceptance thereof by the Company and approval thereof by the Board of Public Utilities.


### **NOTICE**

**NOTICE IS HEREBY GIVEN** that the foregoing Ordinance was introduced and passed on the first reading by the Township Committee of Barnegat, County of Ocean, State of New Jersey on **November 15, 2016 at 6:30 p.m.**, at the Barnegat Township Municipal Building located at 900 West Bay Avenue, Barnegat, New Jersey. The Ordinance will be considered for second and final reading at a meeting of the Township Committee on **December 6, 2016, at 6:30 p.m.**, or as soon thereafter as the matter may be reached and considered, at the Barnegat Township Municipal Building located at 900 West Bay Avenue, Barnegat, New Jersey. At that time the public is invited to ask questions, raise objections or provide public comment with regard to the proposed adoption of this Ordinance.

  
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Michele Rivers, RMC  
Township Clerk

### CERTIFICATION

I, Michele Rivers, Municipal Clerk of the Township of Barnegat, County of Ocean State of New Jersey do hereby certify that the foregoing Ordinance was duly adopted on second reading by the Barnegat Township Committee at their meeting held on the 6<sup>th</sup> day of December 2016.

  
Michele Rivers, RMC  
Township Clerk