

**AGENDA  
SPECIAL COUNCIL MEETING  
430 WESTFIELD AVE., CLARK, NJ 07066  
March 4, 2019  
Municipal Building, Room 30  
7:30 pm**

**ROLL CALL:**

<b>Councilwoman Albanese</b> _____	<b>Councilman Mazzarella</b> _____
<b>Councilman Barr</b> _____	<b>Councilman O'Connor</b> _____
<b>Councilman Hund</b> _____	<b>Councilman Smith</b> _____
	<b>Council President Toal</b> _____

**PLEDGE OF ALLEGIANCE TO THE FLAG: MOMENT OF SILENCE**

This meeting is in compliance with the Open Public Meetings Act as adequate notice of this meeting has been provided by sending written advanced notice of at least 48 hours to the Star Ledger, Union County Local Source, and TAP into Clark, by posting such Meeting Agenda on the Bulletin Board in Town Hall reserved for such announcements and the proper filing of said Notice. Formal action may be taken at this meeting.

**INTRODUCTION OF PROPOSED ORDINANCES:**

- 1. 19-05 BOND ORDINANCE TO AUTHORIZE THE UNDERTAKING OF VARIOUS IMPROVEMENTS TO PARKS AND RECREATION AREAS, INCLUDING, BUT NOT LIMITED TO, THE INSTALLATION OF PLAYGROUND EQUIPMENT AT FUN-TIME JUNCTION IN, BY AND FOR THE TOWNSHIP OF CLARK, IN THE COUNTY OF UNION, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$200,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS.**

Public Hearing March 18th

- 2. 19-06 AN ORDINANCE TO SUPPLEMENT CHAPTER 195, LAND USE AND DEVELOPMENT ARTICLE XXIII, DISTRICT REGULATIONS OF THE CODE OF THE TOWNSHIP OF CLARK**

Public Hearing March 18<sup>th</sup>

- 3. 19-07 AN ORDINANCE TO SUPPLEMENT CHAPTER 310 OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED "STREETS, SIDEWALKS, AND ALL IMPROVEMENTS RELATED THERETO" BY THE ADDITION OF A NEW ARTICLE VIII ENTITLED "SITING OF POLES, CABINETS, AND ANTENNAS IN THE MUNICIPAL RIGHT-OF-WAY"**

Public Hearing March 18<sup>th</sup>

**4. 19-08 AN ORDINANCE TO AMEND AND SUPPLEMENT VARIOUS SECTIONS OF ARTICLE XXVI ENTITLED "WIRELESS TELECOMMUNICATIONS FACILITIES" OF THE CODE OF THE TOWNSHIP OF CLARK**

Public Hearing March 18<sup>th</sup>

**RESOLUTION:**

5. Authorizing the Business Administrator to execute an Administrative Services Agreement with Lincoln Financial Advisors Corp. to update the Deferred Compensation Program

**PUBLIC COMMENTS:**

Each person addressing the Council shall first give his/her name and address to the Clerk. All remarks shall be addressed to the Council as a body and shall not exceed 10 minutes in duration.

**MAYOR, COUNCIL AND PROFESSIONAL COMMENTS:**

**ADJOURNMENT:**

INTRO 1

**TOWNSHIP OF CLARK**  
**Ordinance No. 19-05**  
**Adopted \_\_\_\_\_**

Introduced: March 4, 2019 Public Hearing: March 18, 2019

**BOND ORDINANCE TO AUTHORIZE THE UNDERTAKING OF VARIOUS IMPROVEMENTS TO PARKS AND RECREATION AREAS, INCLUDING, BUT NOT LIMITED TO, THE INSTALLATION OF PLAYGROUND EQUIPMENT AT FUN-TIME JUNCTION IN, BY AND FOR THE TOWNSHIP OF CLARK, IN THE COUNTY OF UNION, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$200,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS.**

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BE IT ORDAINED by the Township Council of the Township of Clark, in the County of Union, New Jersey, as follows:

Section 1. The Township of Clark, in the County of Union, New Jersey (the "Township"), is hereby authorized to undertake various improvements to parks and recreation areas, including, but not limited to, the installation of playground equipment at Fun-Time Junction in, by and for the Township. Said improvements shall include all work, materials and appurtenances necessary and suitable therefor.

Section 2. The sum of \$200,000 is hereby appropriated to the payment of the cost of making the improvements described in Section 1 hereof (hereinafter referred to as "purpose"). Said appropriation shall be met from the proceeds of the sale of the bonds authorized and the down payment appropriated by this ordinance. Said improvements shall be made as general

improvements and no part of the cost thereof shall be assessed against property specially benefitted.

Section 3. It is hereby determined and stated that (1) said purpose is not a current expense of said Township, and (2) it is necessary to finance said purpose by the issuance of obligations of said Township pursuant to the Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes Annotated, as amended; the "Local Bond Law"), and (3) the estimated cost of said purpose is \$200,000, and (4) \$10,000 of said sum is to be provided by the down payment hereinafter appropriated to finance said purpose, and (5) the estimated maximum amount of bonds or notes necessary to be issued for said purpose is \$190,000, and (6) the cost of such purpose, as hereinbefore stated, includes the aggregate amount of \$10,000, which is estimated to be necessary to finance the cost of such purpose, including architect's fees, accounting, engineering and inspection costs, legal expenses and other expenses, including interest on such obligations to the extent permitted by Section 20 of the Local Bond Law.

Section 4. It is hereby determined and stated that moneys exceeding \$10,000, appropriated for down payments on capital improvements or for the capital improvement fund in budgets heretofore adopted for the Township, are now available to finance said purpose. The sum of \$10,000 is hereby appropriated from such moneys to the payment of the cost of said purpose.

Section 5. To finance said purpose, bonds of the Township of an aggregate principal amount not exceeding \$190,000 are hereby authorized to be issued pursuant to the Local Bond Law. Said bonds shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law. All matters with respect to said bonds not determined by this ordinance shall be determined by resolutions to be hereafter adopted.

Section 6. To finance said purpose, bond anticipation notes of the Township of an aggregate principal amount not exceeding \$190,000 are hereby authorized to be issued pursuant to the Local Bond Law in anticipation of the issuance of said bonds. In the event that bonds are issued pursuant to this ordinance, the aggregate amount of notes hereby authorized to be issued shall be reduced by an amount equal to the principal amount of the bonds so issued. If the aggregate amount of outstanding bonds and notes issued pursuant to this ordinance shall at any time exceed the sum first mentioned in this section, the moneys raised by the issuance of said bonds shall, to not less than the amount of such excess, be applied to the payment of such notes then outstanding.

Section 7. Each bond anticipation note issued pursuant to this ordinance shall be dated on or about the date of its issuance, shall be payable not more than one year from its date, shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law and may be renewed from time to time pursuant to and within limitations prescribed by the Local Bond Law. Each of said bond anticipation notes shall be signed by the Mayor and by a financial officer and shall be under the seal of the Township and attested by the Township Clerk or Deputy Township Clerk. Said officers are hereby authorized to execute said notes in such form as they may adopt in conformity with law. The power to determine any matters with respect to said notes not determined by this ordinance, and also the power to sell said notes, is hereby delegated to the Director of Revenue and Finance who is hereby authorized to sell said notes either at one time or from time to time in the manner provided by law.

Section 8. It is hereby determined and declared that the period of usefulness of said purpose, according to its reasonable life, is a period of fifteen years computed from the date of said bonds.

Section 9. It is hereby determined and stated that the Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the office of the Township Clerk of the Township, and that such statement so filed shows that the gross debt of the Township, as defined in Section 43 of the Local Bond Law, is increased by this ordinance by \$190,000 and that the issuance of the bonds and notes authorized by this ordinance will be within all debt limitations prescribed by the Local Bond Law.

Section 10. Any funds received from private parties, the County of Union, the State of New Jersey or any of their agencies or any funds received from the United States of America or any of its agencies in aid of said purpose, shall be applied to the payment of the cost of said purpose, or, if bond anticipation notes have been issued, to the payment of the bond anticipation notes, and the amount of bonds authorized for said purpose shall be reduced accordingly.

Section 11. The Township intends to issue bonds or notes to finance the cost of the improvements described in Section 1 of this bond ordinance. If the Township incurs such costs prior to the issuance of such bonds or notes, the Township hereby states its reasonable expectation to reimburse itself for such expenditures with the proceeds of such bonds or notes in the maximum principal amount of bonds or notes authorized by this bond ordinance.

Section 12. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and interest on the obligations authorized by this ordinance. Said obligations shall be direct, unlimited and general obligations of the Township, and the Township shall levy ad valorem taxes upon all the taxable real property within the Township for the payment of the principal of and interest on such bonds and notes, without limitation as to rate or amount.

Section 13. The capital budget is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, is on file with the Township Clerk and is available for public inspection.

Section 14. This ordinance shall take effect twenty days after the first publication thereof after final passage.

Effective Date:

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**EDITH L. MERKEL, RMC**  
 Township Clerk

\_\_\_\_\_  
**BRIAN P. TOAL**  
 Council President

\_\_\_\_\_  
**SALVATORE BONACCORSO**  
 Mayor

Ord19/3-4 19-05BondOrd200Rec&Parks

	Motion to	Second	Motion to	Second				
	Introduce		Adopt		Aye	Nay	Abstain	Absent
Albanese								
Barr								
Hund								
Mazzarella								
O'Connor								
Smith								
Toal								
<b>TOTAL</b>								



INTRO 3

TOWNSHIP OF CLARK  
ORDINANCE NO.19-07  
ADOPTED \_\_\_\_\_

Introduced: March 4, 2019 Public Hearing: March 18, 2019

**AN ORDINANCE TO SUPPLEMENT CHAPTER 310  
OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED  
"STREETS, SIDEWALKS, AND ALL IMPROVEMENTS RELATED THERETO"  
BY THE ADDITION OF A NEW ARTICLE VIII ENTITLED  
"SITING OF POLES, CABINETS, AND ANTENNAS  
IN THE MUNICIPAL RIGHT-OF-WAY"**

**BE IT ORDAINED** by the Governing Body of the Township of Clark that Chapter 310, entitled "Streets, Sidewalks, and all Improvements Related Thereto" be supplemented by the addition of a new Article VIII entitled Siting of Poles, Cabinets, and Antennas in the Municipal Right-of-Way, as follows:

**WHEREAS**, the Governing Body of the Township of Clark has the sole jurisdiction and the authority to make, amend, repeal, and enforce municipal ordinances related to the boundaries, use, change, modifications, erection, construction, and regulation of the use of those public streets and rights-of-way within the Township of Clark; and

**WHEREAS**, the Governing Body of the Township of Clark is aware of the need to allow its streets and rights-of-way to be used for the siting of small cell wireless facilities necessary and incidental to the proper operation of a modern telecommunications system to be operated within the Township; and

**WHEREAS**, the Federal government, through the adoption of the Federal Telecommunications Act, while preserving local governmental control to those activities, nevertheless, requires local government to make provision within its jurisdiction for personal wireless service facilities; and

**WHEREAS**, the Governing Body of the Township of Clark intends on complying with the foregoing legislation while at the same time exerting such control over said activities of third-party servicers as are necessary and desirable to protect the public interest and to ensure that the roads and municipal rights-of-way are not overly burdened and that the areas which are to be put to use are properly maintained and restored;

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Township of Clark, as follows:

**SECTION 1: 310-33 Definitions:**

- a. "Anticipated Municipal Expenses" means the cost of processing an application for a Right-of-Way Permit including, but not limited to, all professional fees such as engineering and attorney costs incurred by the Township.
- b. "Cabinet" shall mean a small box-like or rectangular structure used to facilitate utility or wireless service from within the Municipal Right-of-Way.
- c. "Electric Distribution System" shall mean the part of the electric system, after the transmission system, that is dedicated to delivering electric energy to an end user.
- d. "Existing Pole" shall mean a pole that is in lawful existence within the Municipal Right-of-Way.
- e. "Ground Level Cabinets" shall mean a Cabinet that is not attached to an existing pole and is touching or directly supported by the ground.
- f. "Municipal Right-of-Way" shall mean the surface of, and the space above or below, any public street, road, place, public way or place, sidewalk, alley, boulevard, parkway, drive, and the like, held by the Township as an easement or in fee simple ownership. This term also includes rights-of-way held by the County of Union where the Township's approval is required for the use of same pursuant to N.J.S.A. 27:16-6. This term shall not include private roadways.
- g. "New Pole" shall mean a Pole proposed to be placed in the Municipal Right-of-Way.
- h. "Pole" shall mean a long, slender, rounded piece of wood, concrete or metal.
- i. "Pole Mounted Antenna" shall mean a device that is attached to a Pole and used to transmit radio or microwave signals and shall include, but not be limited to, small cell equipment and transmission media such as femtocells, picocells, microcells, and outside distributed antenna systems.
- j. "Proposed Mounted Cabinet" shall mean a Cabinet that is proposed to be placed on an Existing or Proposed Pole.
- k. "Proposed Pole" shall mean a Pole that is proposed to be placed in the Municipal Right-of-Way.
- l. "Right-of-Way Agreement" shall mean an agreement that sets forth the terms and conditions for use of the Municipal Right-of-Way and includes, but is not limited to, municipal franchise agreements.
- m. "Restoration Costs" are herein defined as the full cost of restoring the right-of-way to the condition in which it existed prior to the grant of any right-of-way permit or agreement.
- n. "Right-of-Way Permit" shall mean an approval from the Township setting forth applicant's compliance with the requirements of this Article VIII of Chapter 310 of the Revised General Ordinances of the Township of Clark.
- o. "Surrounding Streetscape" shall mean Existing Poles within the same right-of-way which are located within five hundred (500) linear

feet of the Proposed Pole. Poles carrying electric transmission lines shall not be considered part of the "Surrounding Streetscape."

p. "Township Council" shall mean the Township Council of the Township of Clark.

q. "Utilities Regulated by the Board of Public Utilities" shall mean companies subject to regulation by the New Jersey Board of Public Utilities under Chapter 48 of the Revised Statutes.

r. "Utility Service" shall mean electric, telephone, or cable service.

s. "Zone, Non-Residential" shall mean the CO, CN, COH, CG, CP, I, O, P, GC, CI, COR, and LCI zones as designated in Article XXI of Chapter 195 of the Revised General Ordinances of the Township of Clark.

t. "Zone, Residential" shall mean any zones permitting single family, two-family, or multi-family residences, assisted living residences, nursing homes, and/or residential health care facilities.

**SECTION 2: 310-34 ACCESS TO RIGHT-OF-WAY, RIGHT-OF-WAY AGREEMENTS**

a. Notwithstanding any provision to the contrary, no person shall operate or place any type of antenna, cabinet, pole or other facility within 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:

- i. A term not to exceed fifteen (150+) years;
- ii. Reasonable insurance requirements;
- iii. Fine for unauthorized installations;
- iv. A reference to the siting standards as set forth in this Article;
- v. Provisions ensuring adequate maintenance of Applicant's facilities within the Municipal Right-of-Way
- vi. Maintenance and removal bond requirements adequate to ensure that Applicant's facilities will be adequately maintained and removed at the end of the term of the Agreement or earlier if they are abandoned; and
- vii. Any other items which may reasonably be required.

**SECTION 3: 310-35 APPLICATION TO UTILITIES REGULATED BY THE BOARD OF PUBLIC UTILITIES**

1. Notwithstanding any franchise or Right-of-Way Agreement to the contrary, all Antennas, Poles and Cabinets proposed to be placed within the Municipal Right-of-Way by a utility regulated by the Board of Public Utilities, or any other entity with legal access to the Municipal Right-of-Way, shall be subject to the standards and procedures set forth in this Article and shall require Right-of-Way permits for the siting of Poles, Antennas and Cabinets in the Municipal Right-of-Way.

**SECTION 4: 310-36 RIGHT-OF-WAY PERMITS, SITING STANDARDS FOR POLES, ANTENNAS, AND CABINETS IN THE RIGHT-OF-WAY**

- a. No Pole, Antenna, or Cabinet shall be installed within the Municipal Right-of-Way without the issuance of a Right-of-Way Permit.
- b. Pole Siting Standards
  - i. Height. No Pole shall be taller than thirty-five (35) feet or 100% of the average height of poles in the Surrounding Streetscape, whichever is higher.
  - ii. Location, Safety and Aesthetics. No Pole shall be erected in the Right-of-Way unless it:
    - 1. Is replacing an Existing Pole; or
    - 2. Approved pursuant to a land development application by either the Township's Zoning Board of Adjustment or Planning Board pursuant to a land use application; or
    - 3. Is being constructed to house an Antenna; or
    - 4. Is located on the opposite side of the street from the Electric Distribution System; or
    - 5. For sites in Residential Zones, is two hundred (200) linear feet from any other Existing Pole or Proposed Pole along the same side of the street, or for sites in Non-Residential Zones is one hundred (100) linear feet from any other Existing Pole or Proposed Pole along the same side of the street; or
    - 6. Is located in an area which currently has above ground utilities; or
    - 7. Is not located in an area which currently has underground utilities; or
    - 8. Does not inhibit any existing sight triangles or sight distance; or
    - 9. Allows adequate room for the public to pass and re-pass across the Municipal Right-of-Way; and
    - 10. Is finished and/or 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.
- c. Ground Level Cabinet Site Standards
  - i. Ground Level Cabinets are prohibited in Residential Zones.
  - ii. Ground Level Cabinets are permitted in Non-Residential Zones provided that each Ground level Cabinet:
    - 1. Is less than twenty-eight (28) cubic feet in volume; and
    - 2. Is finished and/or painted so as to blend in compatibility with its background and so as to minimize its visual impact on surrounding properties; and
    - 3. Does not inhibit an existing sight triangle or sight distance; and
    - 4. Allows adequate room for the public to pass and re-pass across the Municipal Right-of-Way.

d. Pole Mounted Antenna and Pole Mounted Cabinet Siting Standards.

- i. Pole Mounted Antennas are permitted on Existing Poles in all zones, provided that each Pole Mounted Antenna:
  1. Does not exceed three (3) cubic feet in volume; and
  2. Is finished and/or 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; and
  3. Does not inhibit sight triangles or sight distance; and
  4. Allows adequate room for the public to pass and repass across the Municipal Right-of-Way.
- ii. Pole Mounted Cabinets are permitted on Existing Poles in all zones, provided that each Pole Mounted Cabinet:
  1. Does not exceed sixteen (16) cubic feet; and
  2. Is finished and/or 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; and
  3. Does not inhibit sight triangles or sight distance; and
  4. Allows adequate room for the public to pass and repass across the Municipal Right-of-Way.
- iii. The Township may also require that a Permittee provide a certification from a licensed engineer attesting to the structural integrity of any Pole Mounted Antenna or Pole Mounted Cabinet and the structure on which it is proposed to be mounted.

**SECTION 5: 310-37 APPLICATION PROCESS**

- a. Pre-Application Meeting – Prior to making a formal application with the Township for use of the Municipal Right-of-Way, all applicants are advised to meet with the Township Engineer to review the scope of applicant’s proposal.
- b. The Township Council shall, by resolution, approve or disapprove every Right-of-Way Permit application based on the recommendations provided to it pursuant to subsections (e) and (f) below.
- c. All applications made under this section which trigger Federal Communications Commission shot clock rules pursuant to the Federal Communications Commission Order entitled “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by the Removal of Barriers to Infrastructure Investment.” WT Docket No. 17-79; WC Docket No. 17-84 shall be processed on an expedited basis.
- d. Every application for a New Pole must include a stamped survey prepared by a New Jersey licensed surveyor demonstrating that any such New Pole is located within the Municipal Right-of-Way. An

application which does not include such a survey shall immediately be deemed incomplete.

e. Reserved.

f. Pole Mounted Antenna, Pole Mounted Cabinets, New Poles, and Ground Level Cabinets.

i. The Township Engineer shall review applications to place Pole Mounted Antenna, Pole Mounted Cabinets, New Poles and Ground Level Cabinets within the Municipal Right-of-Way and advise the Township Council of his or her recommendation to approve or disapprove same.

g. If the Township Council denies any application made under this Section, it shall do so in writing and set forth the factual basis therefor.

**SECTION 6: 310-38 WAIVER**

a. The Township Council may waive any siting standard set forth in Section 310-36 where the applicant demonstrates that strict enforcement of said standard:

- i. Will prohibit or have the effect of prohibiting any interstate or intrastate telecommunications service pursuant to 47 U.S.C. 253(a); or
- ii. Will prohibit or have the effect of prohibiting personal wireless service pursuant to 47 U.S.C. 332(c) (7) (b) (I)(II); or
- iii. 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.

**SECTION 7: 310-39 RIGHT-OF-WAY PERMIT FEES AND DEPOSIT TOWARDS ANTICIPATED MUNICIPAL EXPENSES INCLUSIVE OF THE ESTIMATED COST OF RESTORING THE RIGHT-OF-WAY AREA TO THE CONDITION WHICH IT EXISTED PRIOR TO THE ISSUANCE OF ANY PERMIT**

a. Every Right-of-Way Permit application must include a Right-of-Way Permit Fee in the following amounts:

- i. One (1) to five (5) collocation sites on Existing Poles - \$500.00.
- ii. Each additional collocation site on an Existing Pole - \$100.00

b. Deposit Towards Anticipated Municipal Expenses and Restoration Fees

- i. In addition to the Right-of-Way Permit Fee, Applicant shall post a Two Thousand (\$2,000.00) Dollar Deposit Towards Anticipated Municipal Expenses which shall include the cost of the repair and restoration of the right-of-way area. The

Township Engineer may waive this requirement where only the Applicant's Right-of-Way Permit Fees are needed to reasonably cover the Township's expenses related to Applicant's application.

- ii. Applicant's Deposit Towards Anticipated Municipal Expenses shall be placed in an escrow account. If said deposit contains insufficient funds to enable the Township to perform its review, the Chief Financial Officer of the Township shall provide applicant a notice of insufficient balance. In order for review to continue, the applicant shall, within ten (10) days, post a deposit to the account in an amount to be mutually agreed upon.
- iii. The Chief Financial Officer shall, upon request by the applicant, and after a final decision has been made by the Township Council regarding his or her pending Right-of-Way Permit application, and subject to review by the Township Engineer, refund any unused balance from applicant's Deposit Towards Anticipated Municipal Expenses.

**SECTION 8: 310-40 MISCELLANEOUS PROVISIONS**

- a. Any approval received pursuant to this Article does not relieve the applicant from receiving consent from the owner of the land above which an applicant's facility may be located as may be required under New Jersey law, or the owner of any existing pole on which the facility may be mounted.
- b. Applicant must, in addition to receiving a Right-of-Way Permit, also receive all necessary road opening permits, construction permits, and any other requirement set forth in Chapter 310 of the Revised Ordinances of the Township of Clark or state statutes.
- c. The Township's consent for use of County Roads, as required pursuant to N.J.S.A. 27:16-6, shall take the form of a Right-of-Way Permit subject to the standards and application process set forth in this Article. No such applicant shall be required to enter into a Right-of-Way Agreement with the Township.
- d. Applicant must comply with all applicable state, local and federal regulations.
- e. This Article should not be construed to permit new utility poles to be placed into the Municipal Right-of-Way which would otherwise be prohibited pursuant to Section 195-212 of the Revised General Ordinances of the Township of Clark. Rather, this Article is meant to regulate how certain types of facilities are placed onto existing poles and to only permit new poles to be placed into the Municipal Right-of-Way that house Antennas and are in areas that currently have above-ground utilities. This is done to conform with the requirements set forth in the FCC 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.

**SECTION 9:** **Inconsistent Ordinances:** Any ordinances of the Township of Clark which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 10:** **Severability.** If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjusted invalid, such adjudication shall apply on to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

**SECTION 11:** **Effective Date:** This Ordinance shall take effect upon adoption and publication, according to law.

Effective Date:

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**EDITH L. MERKEL**  
 Township Clerk

\_\_\_\_\_  
**BRIAN TOAL**  
 Council President

\_\_\_\_\_  
**SALVATORE BONACCORSO**  
 Mayor

Ord19/3-4 19-07SitingofPolesintheROW

	Motion to	Second	Motion to	Second				
	Introduce		Adopt		Aye	Nay	Abstain	Absent
Albanese								
Barr								
Hund								
Mazzarella								
O'Connor								
Smith								
Toal								
TOTAL								

INTRO 4

TOWNSHIP OF CLARK  
ORDINANCE NO.19-08  
ADOPTED \_\_\_\_\_

Introduced: March 4, 2019 Public Hearing: March 18, 2019

**AN ORDINANCE TO AMEND AND SUPPLEMENT VARIOUS SECTIONS OF  
ARTICLE XXVI ENTITLED "WIRELESS TELECOMMUNICATIONS FACILITIES"  
OF THE CODE OF THE TOWNSHIP OF CLARK**

**BE IT ORDAINED** by the Governing Body of the Township of Clark that the Code of the Township of Clark be amended and supplemented as follows:

**Section 1.** Article XXVI entitled "Wireless Telecommunications Facilities" is amended and supplemented as follows:

**§ 195-162 Purpose, Goals and General Conditions**

*Sub-section B shall be restated as follows:*

B. No antenna(s), personal wireless telecommunications facility, tower or supporting structure shall be located, constructed or maintained on any lot, building, structure or land area, except in conformity with the requirements of Article XXVI of the Revised General Ordinances of the Township of Clark.

*Sub-Section D shall be restated as follows:*

D. Purpose; goals. The purpose of this section is to establish general guidelines for the siting of PWTEFS and PWTFS. The goals of this section are to:

1. Encourage the location of PWTFS in nonresidential areas and minimize the total number of telecommunications towers throughout the community;
2. Encourage strongly the joint use of new and existing PWTEFS and PWTFS sites;
3. Encourage users of PWTEFS and PWTFS to locate them, to the greatest extent possible, in areas where the adverse impact on the community is minimal;
4. Encourage users of PWTEFS and PWTFS to configure them

in a way that minimizes the adverse visual impact of the telecommunication towers and antennas; and

5. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.

**§ 195-162.1 Definitions.**

*The following definitions are deleted from the provisions of this ordinance:*

Existing Pole  
Municipal Right-of-Way  
Proposed Wireless Pole  
Small Cell Equipment  
Utility Pole  
Wireless Pole

*The following definitions shall be incorporated as part of the Ordinance:*

**MUNICIPAL RIGHT-OF-WAY**

Definition set forth at Section 310-33 of the Revised General Ordinances of the Township of Clark.

*The following definitions are added to this ordinance:*

**PERSONAL WIRELESS TELECOMMUNICATIONS EQUIPMENT FACILITIES (PWTEFS).**

Facilities serving and subordinate in area, extent and purpose to, and on the same lot as, a telecommunications tower or antenna location. Such facilities include, but are not limited to, transmission equipment, storage sheds, storage buildings, and security fencing.

**PERSONAL WIRELESS TELECOMMUNICATIONS FACILITIES (PWTF).**

Facilities for the provision of wireless communications services, including, but not limited to, antennas, antenna support structure, telecommunications towers, and related facilities other than PWTEF's.

**§ 195-168 is deleted in its entirety and reserved for future use.**

*§ 195-168.1 is hereby restated as follows:*

§ 195-168.1 COLLOCATION ONTO EXISTING TOWERS AND BASE STATIONS

A. This section implements Section 6409(a) of the Middle Class Tax Relief Job Creation Act of 2012 ("Spectrum Act"), as interpreted by the Federal Communications Commission's ("FCC") Acceleration of Broadband Deployment Report and Order, which requires a state or local government to approve any Eligible Facilities Request for a Modification of an existing Tower or Base Station that does not result in a substantial change to the physical dimensions of such Tower or Base Station.

B. Definitions. The following terms, shall, when used in this section have the following meanings:

1. Base Station.

A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications users, equipment and a communications network. The term does not encompass a Tower as defined herein or any equipment associated with a Tower. This term includes Base Stations in the Municipal Right-of-Way. Base stations includes, without limitation:

- i. Equipment associated with wireless communications services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- ii. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.
- iii. Small Cell Equipment located within the Municipal Right-of-Way.
- iv. Any structure other than a Tower that, at the time the relevant application is filed, supports or houses equipment described in paragraphs (1)(i)-(1)(ii) that has been reviewed and approved under the applicable zoning, siting, or administrative process, even if the structure was not built for the sole or primary purpose of providing that support.

The term does not include any structure that, at the time of application is filed the Planning Board,

Zoning Board or pursuant to any other administrative process does not support or house equipment described in 1(i)-(1)-(ii) of this subsection.

2. Collocation.

The mounting or installing of transmission equipment on an Eligible Support Structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

3. Eligible Facilities Request.

Any request for modification of an existing Tower or Base Station that does not substantially change the physical dimension or such tower or base station, involving:

- i. Collocation of new transmission equipment;
- ii. Removal of transmission equipment; or
- iii. Replacement of transmission equipment.

4. Eligible Support Structure.

Any Tower or Base Station as defined in this section, provide that it is existing at the time the relevant application is filed with the Planning Board, Zoning Board or applicable municipal official.

5. Existing

A constructed Tower or Base Station is existing for the purposes of this section if it has been reviewed and approved under the applicable zoning, siting or administrative process.

Reserved. Site.

For Towers other than Towers in the Municipal Rights-of-Way, the current boundaries of the leased or owned property surrounding the Towers and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

6. Substantial Change.

- i. For Towers other than Towers in the Municipal Rights-of-Way, it increases the height of the Tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or

- more than ten feet, whichever is greater;
  - ii. For Towers other than Towers in the Municipal Rights-of-Way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other Eligible Support Structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
  - iii. For any Eligible Support Structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the Municipal Rights-of-Way and Base Stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
  - iv. It entails any excavation or deployment outside the current site;
  - v. It would defeat the concealment elements of the Eligible Support Structure; or
  - vi. It does not comply with the conditions associated with the siting approval of the construction or modification of the eligible support structure or Base Station equipment, provided that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in paragraphs (8)(I) - (8)(iv) of this subsection.

7. Transmission Equipment

Equipment that facilitates transmission for any FCC licensed or authorized wireless communications service, including, but not limited to, radio transceivers, antennas, coaxial or fiber optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services,

as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

8. Tower.

Any structure built for the sole or primary purpose of supporting any FCC licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. This term includes Towers in the Municipal Right-of-Way.

C. Application Review

1. Type of Review. Upon receipt of an application for an Eligible Facilities Request pursuant to this section, the Planning Board, Zoning Board or otherwise applicable municipal official shall review such application to determine whether the application qualifies.
2. Timeframe for Review. Within 60 days of the date on which an applicant submits an application seeking approval under this section, the Planning Board, Zoning Board or otherwise applicable municipal official shall approve the application unless it is determined that the application is not covered by this section.
3. Tolling of the Timeframe for Review. The 60-day review period begins to run when the application is filed, and may be tolled only by mutual agreement by the Planning Board, Zoning Board or otherwise applicable municipal official and the applicant, or in the cases where the application is deemed incomplete.
  - i. To toll the timeframe for incompleteness, the Planning Board, Zoning Board or otherwise applicable municipal official must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application.
  - ii. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the notice of incompleteness by the Planning Board, Zoning Board or otherwise applicable municipal official.
  - iii. Following a supplemental submission, the Planning Board, Zoning Board or otherwise applicable municipal official will notify the applicant within

10 days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in paragraph (3) of this subsection. Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.

4. Interaction with 42 U.S.C. 332(c)(7). If the Planning Board, Zoning Board or otherwise applicable municipal official determines that the applicant's request is not covered by the Spectrum Act as delineated under this section, the presumptively reasonable timeframe under 42 U.S.C. 332(c)(7), as prescribed by the FCC, will begin to run from the issuance of decision that the application is not a covered request by the Planning Board, Zoning Board or otherwise applicable municipal official.

**Section 2. Planning Board Review.** After introduction, the Township Clerk is hereby directed to submit a copy of this Ordinance to the Planning Board of the Township of Clark for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Township Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance which are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

**Section 3. Severability.** If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

**Section 4. Inconsistent Ordinances.** All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

**Section 5. Effective Date.** This Ordinance shall take effect immediately upon: (i) adoption; (ii) publication in accordance with the laws of the State of New Jersey; and (iii) filing of the final form of adopted Ordinance by the Clerk with the Union County Planning Board pursuant to N.J.S.A. 40:55D-16.



5

TOWNSHIP OF CLARK  
Resolution 19-50  
February 19, 2019

**WHEREAS**, the Township of Clark, County of Union, New Jersey (hereinafter referred to as the “Employer”) by resolution previously adopted a Deferred Compensation Plan (hereinafter referred to as the “Plan”) for the purpose of making available to eligible employees the accrual of tax benefits under a Section 457 Deferred Compensation Plan; and

**WHEREAS**, the Economic Growth and Tax Relief Reconciliation Act of 2001, the 2005 final regulations issued under the Uniformed Services Employment and Reemployment Rights Act of 1994, the Pension Protection Act of 2006, final Treasury Regulation §1.457-4, the Heroes Earnings Assistance and Relief Tax Act of 2008, the Worker, Retiree and Employer Recovery Act of 2008 and the Small Business Act of 2010 amended sections of the Internal Revenue Code (the “Code”) and the rules and/or regulations issued thereunder affecting Section 457 Deferred Compensation Plans (cumulatively referred to as the “Acts and Regulations”); and

**WHEREAS**, the Employer desires its Plan to conform with the changes in the Code and Treasury regulations brought about by the Acts and Regulations; and

**WHEREAS**, the Employer desires to adopt a restated Plan that conforms with the changes in the Code and Treasury regulations resulting from the Acts and Regulations; and

**WHEREAS**, such revised Plan shall supersede the previously adopted Plan.

**NOW, THEREFORE BE IT RESOLVED** that the Employer hereby adopts a revised Plan 92-PD-Lincoln-121316.

**BE IT FURTHER RESOLVED** that Lincoln Retirement Services, LLC (hereinafter referred to as “Lincoln”) has agreed to continue to be the provider of the Deferred Compensation Program for employees and elected officials; and

**BE IT FURTHER RESOLVED** that Lincoln will continue to provide, for the benefit of the participants the Multi-Fund Variable Annuity contract; and

**BE IT FURTHER RESOLVED** that there has been no collusion, or evidence or appearance of collusion, between any local official and a representative of Lincoln in the selection of a provider pursuant to N.J.A.C. 5:37 - 5.7.

**BE IT FURTHER RESOLVED** that the Business Administrator is authorized to execute an Administrative Services Agreement with Lincoln (94-SA-Lincoln-110217) and such other agreements as are necessary to implement the Deferred Compensation

Program. It is implicitly understood that there is to be no cost or contribution by the Employer to the program; and

**BE IT FURTHER RESOLVED** that the Business Administrator is authorized to serve as the "Administrator" of the plan, represent the Employer, and execute individual deferred compensation agreements with each said employee; and

**BE IT FURTHER RESOLVED** by the Employer that the Clerk forward a certified true copy of this resolution to the Business Administrator; and

**BE IT FURTHER RESOLVED** that a certified copy of this resolution shall be forwarded to the Director of the Division of Local Government Services at P.O. Box 803; Trenton, NJ 08625-0803.

Executed this 4th day of March 2019, by:

ATTEST:

APPROVED:

\_\_\_\_\_  
EDITH L. MERKEL, RMC  
Township Clerk

\_\_\_\_\_  
BRIAN P. TOAL  
Council President

Res19/3-4AuthDeferredCompPlanchanges-Lincoln

	Motion	Second	Aye	Nay	Abstain	Absent
Albanese						
Barr						
Hund						
Mazzarella						
O'Connor						
Smith						
Toal						
TOTAL						