

# Egg Harbor Township

## Ordinance No. 29

2019

**An ordinance granting consent and permission to Mobilitie, LLC to locate and operate small network nodes in the public right-of-way in the Township of Egg Harbor by attaching to existing utility poles pursuant to N.J.S.A. 48:3-18 and N.J.S.A 48:3-19**

**WHEREAS**, Mobilitie, LLC, (“Mobilitie”), is a provider of commercial mobile service subject to regulation by the Federal Communications Commission; and

**WHEREAS**, Mobilitie has entered into agreements with parties that have the lawful right to maintain poles in the public right-of-way pursuant to which Mobilitie may use such existing poles erected within the public right-of-way in the Township of Egg Harbor; and

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

**BE IT ORDAINED**, by the Township Committee of Egg Harbor, County of Atlantic and State of New Jersey that:

**SECTION 1.** Permission and authority are hereby granted to Mobilitie and its successors and assigns, to use existing poles erected by parties that have the lawful right to maintain poles within the public right-of-way in the Township of Egg Harbor, subject to the following:

- A. Mobilitie, 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. Mobilitie, 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 Egg Harbor.
- C. Such permission be and is hereby given upon the condition and provision that Mobilitie, and its successors and assigns, shall to the fullest extent permitted by law, defend, pay on behalf of, indemnify, and hold harmless the Township of Egg Harbor, its elected and appointed officials, its agents, employees and volunteers and others working on behalf of the Township of Egg Harbor against any and all claims, demands, suits, or loss, including all costs connected therewith, and for any damages which may be asserted, claimed or recovered against or from the Township of Egg Harbor, its elected and appointed officials, its agents, employees, volunteers or others working on behalf of the Township of Egg Harbor, by reason of personal damage, including loss of use thereof, which arises out of or is in any way connected or associated with this contract, except to the extent resulting from the acts or omissions of the Township of Egg Harbor.
- D. Mobilitie shall, at its own cost and expense, maintain commercial general liability insurance in the amount of \$3,000,000 combined single limit per occurrence and automobile

insurance with combined single limits of \$2,000,000 for bodily injury (including death) and property damage each occurrence. Workers compensation insurance in compliance with the statutory requirements of the state(s) in which work is performed. The Township of Egg Harbor shall be included as an "Additional Insured" as their interests may appear under this agreement on all general liability policies. Nothing in this section shall limit Mobilitie's liability in any way.

- E. Mobilitie 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 Egg Harbor nor Mobilitie shall be liable to the other for consequential, incidental, exemplary, or punitive damages on account of any activity pursuant to this instrument.
- G. The permission and authority hereby granted shall continue for the same period of time as the grant to parties whose existing poles Mobilitie is using.
- H. This resolution authorizes Mobilitie to use existing poles erected within the public right-of-way of the Township of Egg Harbor by parties that have the lawful right to maintain such poles. The small network nodes attached to the existing poles shall not exceed four (4) feet in height.

**SECTION 2.** All ordinances and parts of Ordinances inconsistent with the provisions of this ordinance are, to the extent of such inconsistency, hereby repealed.

**SECTION 3.** Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

**SECTION 4.** This Ordinance shall become effective immediately upon final adoption and publication according to law.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE TOWNSHIP COMMITTEE OF EGG HARBOR TOWNSHIP, IN THE COUNTY OF ATLANTIC, STATE OF NEW JERSEY, HELD SEPTEMBER 4, 2019 AND WILL BE FURTHER CONSIDERED FOR FINAL PASSAGE AFTER A PUBLIC HEARING THEREON AT A REGULAR MEETING OF SAID TOWNSHIP COMMITTEE TO BE HELD IN THE TOWNSHIP HALL, IN SAID TOWNSHIP ON OCTOBER 2, 2019.

Dated: September 4, 2019

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Eileen M. Tedesco, RMC  
Township Clerk