

NOTICE OF PENDING ORDINANCE
NOTICE IS HEREBY GIVEN

that at a meeting of the Council of the Borough of North Plainfield held on November 14, 2022 there was introduced and read for the first time, and passed on such first reading, an ordinance, a true copy whereof is printed below and that said Council did then and there fix the regular meeting of said Council to be held on December 12, 2022 at 7:30 p.m. or as soon thereafter as the matter may be heard, and the Borough Council Chambers, 263 Somerset Street, North Plainfield, New Jersey or virtual meeting as the place when and where said ordinance will be further considered for final passage, at which time and place, or at any time and place to which such meeting shall from time to time be adjourned, all persons interested will be given an opportunity to be heard concerning such ordinance.

The said ordinance as introduced and passed on first reading as aforesaid is in the following words and figures:

ORDINANCE NO. 22-11

AN ORDINANCE TO AMEND, REVISE AND SUPPLEMENT CHAPTER 14 OF THE BOROUGH CODE, ENTITLED “STREETS, SIDEWALKS AND SANITATION” AND, MORE SPECIFICALLY, SECTION 14-6, ENTITLED “ELECTRICAL LINES,” BY AMENDING § 14-6.1 TO CREATE § 14-6.1(A) AND ADD NEW § 14-6.1(B), AND BY ADDING A NEW SECTION 14-6.2, ENTITLED “ABANDONED TELECOMMUNICATIONS SERVICE LINE LINES.”

WHEREAS, pursuant to *N.J.S.A. 40:48-1* and *N.J.S.A. 40:48-2*, the governing body of a municipality may make, amend, repeal and enforce such ordinances, regulations, rules and by-laws not contrary to the laws of this State and/or of the United States, as it may deem necessary and proper for the good of government, order, and protection of person and property and for the preservation of the public health, safety and welfare of the municipality and its inhabitants and, as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any other law; and,

WHEREAS, *N.J.A.C. 14:18-2.1(a and c)* provide that:

every cable television company shall construct and install its facilities in accordance with the applicable provisions of the National Electrical Safety Code, and subsequent amendments thereto, the National Electrical Code, and subsequent amendments thereto, as well as all Federal, State, and local laws, and any pole, conduit, or trench licensing agreements with utilities or other managers of rights-of-way; and,

Each cable television company shall make reasonable efforts to protect the public and its property from injury or damage and shall execute due care to reduce hazards to which

employees, customers or the general public may be subjected by reasons of its equipment or facilities; and,

WHEREAS, the Borough Council is concerned that abandoned, disconnected, loose and/or hanging telecommunications service line wires present a danger to the public from entanglement, overuse of utility poles and/or tripping hazards; and,

WHEREAS, pending action by the New Jersey State Legislature, the Borough Council wishes to protect the public from such hazards regarding removal of abandoned telecommunication service line wires; and,

WHEREAS, the Borough Council finds it necessary and appropriate to amend, revise and supplement § 14-6 of the Borough Code regarding electrical lines.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of North Plainfield, County of Somerset, State of New Jersey that the Borough Code of the Borough of North Plainfield be amended, revised and supplemented as to Chapter 14 of the Borough Code, entitled “Streets, Sidewalks and Sanitation”, more specifically § 14-6, entitled “Electrical Lines,” by amending § 14-6.1 to create § 14-6.1(a) and add new § 14-6.1(b), and by adding a new § 14-6.2, entitled “Abandoned Telecommunication Service Lines” as follows:

§ 14-6.1, Electrical Lines, is hereby amended as follows:

§ 14-6.1 Application to Council Required; Consent by Property Owners.

A. Telegraph, telephone and other electric wire lines may be run and maintained and poles therefor erected within the limits of the Borough, through such streets, roads, avenues and public places and upon such terms as may be prescribed by resolution of the Council of the Borough duly passed by the Council after a petition has been filed with them, the petition to state the streets, and places through which it is proposed to run such wires and accompanied by the consent in writing of the owners of such piece or parcel of land in front of which it is proposed to erect a pole, and such petition shall state as near as may be the number of poles, wires, etc., and other details. In all cases where the Council may grant permission to construct or erect or maintain poles and wires under this Section it shall be subject to any rights that may be vested in the property owners in front of whose property it is proposed to erect such pole and wire, and the petitioner in all cases will be required before doing any work looking to the constructing of any electrical line of wires under a resolution as herein provided to first obtain the consent in writing of the property owners in front of whose property it is proposed to erect a pole, and the Council may in the resolution granting any privileges under this Section state such further conditions as in their

judgment each case may require. This Section shall apply to poles and wires now run and maintained, and the same shall be under the like control of the Council.

- B. In all cases, any entity which erects, repairs or replaces any telecommunication service line as defined in § 14-6.2 shall insure that such telecommunication service line shall connect from any pole to a residential or commercial property from the area of the same point of origin at the pole to the area of the same point of exterior building connection as other electrical service lines and telecommunication service lines servicing said residential or commercial property.

§ 14-6.2 Abandoned Telecommunications Service Lines

Definitions

Abandoned shall mean any line that is permanently out of service or which has not been in operation for a period of at least twelve (12) consecutive months. Abandoned shall also mean a line which has fallen from its attachment at a pole or building or other structure or is sagging or falling from its attachment at a pole or building or other structure and presents a danger or inconvenience to pedestrians or traffic.

Entity means a person, municipality, utility, partnership, association and/or corporation having ownership of a line in this State, including ownership acquired by sale or corporate merger.

Line means an above-ground cable or wire attached to a pole, building or other structure and which is used for the provision of any telecommunication and/or cable service of any type service and shall include any equipment or facility associated with that line attached to that pole or a building or other structure.

Telecommunication service means the electronic transmission, conveyance, or routing of voice, data, audio, video or any other information or signals to a point or between or amongst points.

- A. Notwithstanding any law, rule, regulation, or order to the contrary, an entity owning a telecommunication service line that is abandoned or permanently out of service shall remove that telecommunication service line from all points of attachment when it determines that such telecommunication service line is abandoned.
- B. Notwithstanding any law, rule, regulation or order to the contrary, the Borough Code Enforcement Officer or Borough Engineer or other designated Borough official, as designated by the Mayor, shall notify an entity of an abandoned telecommunication service line by sending a written request to the entity owning that telecommunication service line requesting removal if the telecommunication service line is reasonably believed to be abandoned or permanently out of service.

- C. The entity shall determine if the telecommunication service line is abandoned and shall notify the Borough Code Enforcement Officer or Borough Engineer or other designated Borough official, as designated by the Mayor, of its determination within fifteen (15) calendar days of receiving notice of the abandoned or permanently out of service telecommunication service line.

- D. The entity shall remove the abandoned or permanently out of service telecommunication service line within fifteen (15) calendar days of notification to the Borough Code Enforcement Officer or Borough Engineer or other Borough official as designated by the Mayor of its determination that the telecommunication service line is abandoned or permanently out of service.

- E. The entity shall restore any telecommunication service line which is not determined to be abandoned and/or permanently out of service, but has fallen from its attachment at a pole or building or other structure, or is sagging or falling from its attachment at a pole or building or other structure and presents a danger or inconvenience to pedestrians or traffic and has remained in such condition for a period of thirty (30) calendar days, within fifteen (15) calendar days of notification by the Borough Code Enforcement Officer or Borough Engineer or other designated Borough official as designated by the Mayor of its determination that the telecommunication service line is abandoned or permanently out of service.

- F. Notwithstanding any law, rule, regulation or order to the contrary, but subject to any telecommunication service franchise agreement with the Borough of North Plainfield, the Borough Code Enforcement Officer or Borough Engineer is authorized to issue a summons for failing to remove a telecommunications service line that is abandoned or permanently out of service within sixty (60) calendar days of notification by the Borough Code Enforcement Officer or Borough Engineer or other designated Borough official, as designated by the Mayor, to the entity that the telecommunication service line is reasonably believed to be abandoned.

- G. Any person who shall violate any of the provisions of this Section shall, upon conviction of same, be subject to a penalty as established in Chapter 1, Section 1-5.

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. All ordinances or portions of ordinances that are inconsistent with this Ordinance shall be repealed as to their inconsistencies only.

2. If any provision or paragraph of this Ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or paragraphs of this Ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.

3. This Ordinance shall take effect, after final passage, twenty (20) days following action or inaction by the Mayor as provided by law or an override of a mayoral veto by the Council, whichever is applicable and publication in accordance with law, unless a resolution is adopted, pursuant to *N.J.S.A. 40:69A-181(b)*, declaring an emergency and providing that this Ordinance shall take effect at an earlier date.

Copies of the full Ordinance are on file with the Borough Clerk of the Borough of North Plainfield in the Municipal Building, 263 Somerset Street, North Plainfield, New Jersey. Copies may be obtained upon request and a copy is posted on the Bulletin Board in the Municipal Building reserved for such purpose.

Richard K. Phoenix, RMC
Borough Clerk