



## Legislation Details (With Text)

**File #:** 20-0770      **Version:** 1      **Name:**

**Type:** Ordinance      **Status:** Adopted

**File created:** 6/29/2020      **In control:** Engineering

**On agenda:** 7/14/2020      **Final action:** 8/5/2020

**Title:** AN ORDINANCE TO AMEND TITLE XXIX ENTITLED "STREETS AND SIDEWALKS" OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, 2000, AS AMENDED AND SUPPLEMENTED TO REPEAL AND REPLACE CHAPTER 28 RELATING TO THE INSTALLATION OF COMMUNICATIONS FACILITIES IN THE STREETS AND MAKE OTHER RELATED AMENDMENTS TO TITLE XXIX.

**Sponsors:** Council of the Whole

**Indexes:**

**Code sections:**

Date	Ver.	Action By	Action	Result
8/5/2020	1	Municipal Council	Close on Public Hearing and Adopt	Pass
7/22/2020	1	Municipal Council	Adopt on First Reading	Pass
7/14/2020	1	Municipal Council	Advance to First Reading	Pass

**AN ORDINANCE TO AMEND TITLE XXIX ENTITLED "STREETS AND SIDEWALKS" OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, 2000, AS AMENDED AND SUPPLEMENTED TO REPEAL AND REPLACE CHAPTER 28 RELATING TO THE INSTALLATION OF COMMUNICATIONS FACILITIES IN THE STREETS AND MAKE OTHER RELATED AMENDMENTS TO TITLE XXIX.**

**WHEREAS**, providers of wireless and wireline telecommunications have expressed a desire to install wireless and wireline facilities in the streets in order to expand the capacity of communications networks in the city; and

**WHEREAS**, the City of Newark ("City") finds that enabling communications providers to provide high quality wireless communications service infrastructure to serve current and future needs of the City, its residents, visitors and businesses is beneficial to the City; and

**WHEREAS**, the City intends that the Director of Engineering specifically, and the Department of Engineering as a whole, continue in its role of regulating and managing use of the City's streets; and

**WHEREAS**, the City desires to balance the equitable needs of communications providers with its duties to protect the public health, safety, and welfare of its residents; to avoid adverse visual and aesthetic impacts; and to manage the streets, a physically limited resource; and

**WHEREAS**, the City finds it appropriate to clarify its policy with respect to agreements for the use of City-owned or controlled support structures as defined herein, within the streets; and

**WHEREAS**, the City deems it necessary and appropriate to establish a fair, equitable and efficient process for the review and approval of requests to install wireline and wireless communications facilities in the streets that protects the health, safety, welfare and aesthetic concerns of the public, complies with all applicable laws, and permits the City to recover all costs associated with the review of such requests and with the use of the streets, and fair and reasonable compensation for the use City property, consistent with state and federal law.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

**SECTION 1.** Chapter 1 of Title XXIX of the Revised General Ordinances of the City of Newark, New Jersey 2000 shall be amended and supplemented by adding the **underlined and bold** text:

**29:1-1. DEFINITIONS.**

As used in this Title:

**Antenna shall mean an apparatus designed for the purpose of emitting or receiving radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the transmission or reception of writing, signs, signals, data, images, pictures, and sounds of all kinds. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under the U.S. Code of Federal Regulations, 47 C.F.R. Part 15.**

**Communications facility or facility shall mean any and all equipment and installations of any kind located in whole or part in the streets and used to provide telecommunications services, information services or cable services other voice, video or data services, including, but not limited to any optical repeaters, converters, power amplifiers, radios, multiplexers, remote radioheads, antenna, aboveground and underground fiber optic and coaxial cable, conduit, wires, meters, pedestals, power switches, cabinets, enclosures, and control boxes, utility poles and supporting structures, whether new, existing or replacement structures, and whether referred to singly or collectively, but does not include facilities of an electric utility used solely in connection with the provision or management of electrical services or facilities.**

**FCC shall mean the Federal Communications Commission, or a successor agency.**

**Street shall mean the full width of the area dedicated to public use, extending from the property line on one side to the property line on the other side, including the roadway and sidewalk, of any public street, avenue, road, alley, lane, highway, boulevard, concourse, driveway, culvert or bridge, and with respect to any public utility as defined in N.J. Stat. 48:2-13 or cable television company as defined in N.J. Stat. 48:5A-3, shall also include any right-of-way as defined in N.J. Stat. 48:3-17.9.**

**Support structure or Supporting structure shall mean any structure located in whole or in part in the street which can be used to support an antenna including an : (1) An “existing**

supporting structure,” which is a supporting structure that can support an antenna in place at the time of an application which is neither a replacement or new support structure, (2) a “replacement support structure,” which is a support structure that would replace an existing vertical structure, and a (3) “new support structure,” which is a vertical structure that would be an installed for the purpose of supporting an antenna without replacing another structure.

Temporary wireless telecommunications facility shall mean a wireless telecommunications facility intended or used to provide wireless services on a temporary or emergency basis, such as a large scale special event in which more users than usual gather at a location or when a disaster requires additional service capabilities. Temporary wireless telecommunications facilities include without limitation, cells on wheels, sites on wheels, cells on light trucks, or other similar wireless telecommunications facilities: (1) that will be in place for no more than 60 days (or such other longer time as the City may allow in light of the event or emergency); (2) for which required notice is provided to the Federal Aviation Administration (FAA); (3) that do not require marking or lighting under FAA regulations; (4) that will be less than 100 feet in height; and (5) that will either involve no excavation or involve excavation only as required to safely anchor the facility, where the depth of previous disturbance exceeds the proposed construction depth (excluding footings and other anchoring mechanisms) by at least two feet.

Tower shall have the same meaning as the term tower as defined at 47 C.F.R. §1.6100. This definition does not include utility poles, streetlight, or traffic signal poles that support wireless telecommunications facilities.

Underground areas shall mean those areas where there are no electrical distribution lines or lines of the incumbent local exchange carrier aboveground in the streets; or where the same are scheduled to be converted from overhead to underground. Electrical distribution facilities do not include transmission facilities used or intended to be used to transmit electricity at nominal voltages in excess of 35,000 volts.

Wireless equipment shall mean all equipment, wiring, enclosures, power supplies, meters, disconnects and other devices, other than an antenna at a fixed location and required or used in connection with the provision of wireless services.

Wireless service shall mean any FCC-authorized wireless communications service provided using licensed or unlicensed spectrum, including the use of Wi-Fi.

Wireless telecommunications facility shall mean all elements of a facility at a fixed location used in connection with the provision of any wireless service to the public, but excluding the supporting structure to which the base station is attached or within which it is enclosed. Provided that, the term does not include a wireless telecommunications facilities owned and operated by the City or any governmental agency for its use, or public safety uses.

Wireless telecommunications facilities manual shall mean the manual, as it may be amended from time to time by the Director, in which those regulations pertaining to the placement of wireless telecommunications facilities in the streets shall be consolidated.

Wireless infrastructure provider shall mean a person that owns, controls, operates or manages a wireless telecommunication facility or portion thereof that is not a wireless service

provider.

Wireless service provider shall mean every person who provides wireless services to end users.

**SECTION 2:** Title XXIX of the Revised General Ordinances of the City of Newark, New Jersey 2000 is hereby amended by amending Chap. 5, Art. 2, Sec. 29:5-6 to read as follows:

**29:5-6. COMPLIANCE WITH ARTICLE REQUIRED.**

a. Every person engaged in any work in, under or upon any street or public place, or obstructing or encumbering with building material or equipment, or using or occupying in any manner, any street or public place, shall observe and comply with the provisions of this Article and the regulations of the Director supplemental thereto.

b. No person shall install, erect, hang, lay, bury, draw, emplace, construct, modify or reconstruct any facility upon, across, beneath, or over any street in this city (collectively, “use and occupy”); cause the same to occur; or occupy the same without first obtaining a franchise, license, or consent to use and occupy the streets from the City, except where such person holds a franchise, license or consent from the State of New Jersey, and no further franchise, license, or consent is required from the City. No permit may issue to any person who does not hold all required franchises, licenses, and consents. Provided that, subject to such conditions as the City may establish, a franchise, license, or consent may specifically permit a wireless infrastructure provider to allow a wireless service provider to own part of a communications facility without the wireless service provider obtaining a separate franchise or consent to occupy the streets.

c. A permit is not a franchise, license, or consent to use and occupy the streets within the meaning of Section 29:5-6.b. No franchise, license, or consent to occupy the streets shall necessarily grant the right to utilize any particular location or install facilities along any particular route, or to occupy any City-owned pole, duct, conduit, or other fixed infrastructure within the streets, except as specifically provided by the agreement.

d. Each franchise, license or consent shall, at a minimum contain provisions ensuring that City may recover any reasonable costs incurred in connection with use and occupancy of the streets, and, that permit the City, to the extent allowed by applicable law, to recover the fair value of the streets and other property affected by the use and occupancy of the streets.

e. Any franchise, license or consent issued prior to the effective date hereof shall remain valid, and, but the modification of those facilities, and the continued use of the streets must satisfy the requirements of this ordinance in accordance, except as prohibited by law.

**SECTION 3.** Title XXIX of the Revised General Ordinances of the City of Newark, New Jersey 2000 is hereby amended by repealing the existing Chapter 28, entitled Use of Public Rights of Way; Fees (Telecommunications), and replacing it with a new Chapter 28, entitled Use of Streets for Telecommunications; Fees that reads as follows:

**29:28-1. Agreements for Use of Streets for Communications Facilities; Application**

## Requirements.

a. Template Street Use Agreement. The City Council may adopt an agreement template authorizing use and occupancy of the streets with communications facilities, which agreement shall satisfy the requirements of Section 29:5-6.b. The Director is authorized, with the agreement of Corporation Counsel, and subject to any necessary action that may be required under state law, to execute an agreement with any person in substantially the form approved. Modifications that limit the scope of the grant are not considered substantial. No agreement shall relieve any person from the obligation to obtain all necessary permits and approvals including permits required under Section 29:28-2, and pay all applicable fees, required by applicable state, local, and federal law. No contract or permit given by the City under this Chapter shall be interpreted to grant a person, an exclusive franchise, license, consent, permit, or final approval for access and use of the streets. Where a person seeks to provide video services, they must separately obtain a franchise as provided under state and local laws governing the provision of video services.

b. Application for Agreement. A person seeking to use and occupy any street in the City with a communications facility, shall submit an application to the Director, on forms adopted by the Director. The applicable forms will be on file with the Office of the City Clerk and may be amended or replaced at any time. In the absence of such form, submit a letter clearly requesting an agreement to for use and occupancy of the streets, identifying, at a minimum, the name of the applicant, status of the applicant (i.e. corporation, general partnership, limited partnership, etc.), the address in the state of domicile, and local address, if any; a copy of any authorization, if required by state law, necessary for the provider to act as a public utility according to the statutes of the State of New Jersey regulating public utilities; a detailed description of the proposed use of the streets, the type of services intended to be provided, and (if available) detailed maps and technical drawings of proposed installations. If the template agreement then in effect is acceptable to the applicant, it shall so indicate in their application; otherwise, a specific list of requested changes, with detailed explanations for each, shall be included with any application. If applicant claims that an application must be acted on within a specified period of time, it shall identify the period of time and the statute or regulation upon which the claim is based. Without limitation, in addition to any grounds the City may specify in its review of the application. if, by the date the City is required to act on an application, as that date may be extended, an agreement has not been signed by all parties, the application shall be deemed denied without prejudice for applicant's failure to timely enter into an agreement with the City.

c. Fees for Application. Each person seeking a franchise, license or consent to use the streets under this Title XXIX shall pay a deposit, in the amount of five thousand (\$5,000.00) dollars to cover the City's initial costs in reviewing and processing the request. Payment shall be made by depositing five thousand (\$5,000.00) dollars with the Department of Engineering with the initial application for agreement prescribed in subsection (b) of this section. The city may draw from the deposit account after providing the Applicant written notice of the reasonable costs to paid from the account. Applicants shall be responsible for payment of such additional reasonable costs as the City may incur in reviewing the application. Such reasonable costs may include, but are not limited to, internal staff time, and reasonable costs associated with the retention of outside counsel and consultants to provide additional expertise where needed. In the event such additional expenses are required, the City shall so advise the applicant. Any outstanding amount shall be due upon final action on the

application and must be paid prior to the City's execution of any franchise, license or consent under this Title XXIX. Any amounts not expended in the review, excluding a reasonable, estimated share of the City's costs in developing the agreement, shall upon written request to the City be returned to the applicant.

d. Processing of Application. Applications will be processed in accordance with applicable law and may be rejected if incomplete. Where an applicant is not willing to enter into the template agreement, Director may deny the application, or recommend an alternative agreement to City where applicant has shown good cause to the Director for modifying the agreement. Provided, that applicant may be required to pay additional fees reflecting the costs to the City, consistent with the provisions of subsection (c) of this section.

#### **29:28-2 Certificate Required.**

The City of Newark will not grant rights and privileges to use the public right of way to any entity that is not authorized to do business in the State of New Jersey an evidenced by an original Certificate of Incorporation and/or a Certificate of Good Standing from the Secretary of the State of New Jersey.

#### **29:28-3 Installation Regulations.**

a. Director May Establish. The Director shall establish regulations regarding the installation of wireless and fiber optic or other telecommunications cable and materials and construction standards. Such standards shall be consistent with the provisions of this Chapter, and shall reflect the City's ongoing desire to minimize obstruction, disruption or damage to the rights-of-way, and to make efficient use of the rights-of-way, minimizing impacts on the City and its residents, and to maximize the City's ability to deploy infrastructure for its own needs. Without limitation, the Director may establish regulations requiring coordination of construction within the streets, including requirements for joint trenching and for noticing open trenches, and may, subject to limitations in applicable law, require those constructing facilities to install facilities for City use. Consistent with applicable law, fees established by the Director may be established to take into account the benefits to the City of coordinated construction, and the harms caused by uncoordinated construction.

b. Joint Application. An applicant and any person(s) on whose behalf work is to be performed, or who will own or control any portion of the communications facilities that will be installed pursuant to an authorization issued by the city, shall be jointly responsible for submitting all necessary information to the city and for ensuring the accuracy of any information submitted. Where a person seeks to use and occupy the streets with all or part of a wireless telecommunications facility; a supporting structure whose primary purpose is to support of wireless telecommunications facility; or where a person proposes to install communications facilities in the streets for the primary purpose of connecting to a wireless telecommunications facility, a joint application must be filed seeking appropriate consents to cover the entirety of the proposed work associated with the wireless communications facility, unless the Director determines that submission of separate applications will not adversely affect the ability of the City to appropriately regulate the placement, construction or modification of a wireless telecommunications facility and any associated supporting structure; or adversely affect the ability of the City to manage and to prevent disruption of the

streets.

c. Waivers. Requests for waivers from any requirement of this Chapter shall be made in writing to the Director. The Director may grant a request for waiver if the utility (or a contractor working for the utility) demonstrates to the Director that, notwithstanding the issuance of a waiver, the department will be provided all information necessary to understand the nature of the construction or other activity to be conducted pursuant to the permit sought.

29:28-4. Wireless telecommunications facilities permit required.

a. Wireless permits required.

1. For purposes of this chapter, the terms “install” and/or “modify” shall be interpreted broadly to encompass any activity conducted with respect to a wireless telecommunications facility, or its supporting structure, including without limitation construction, excavation, site preparation, reinforcing, altering, reconfiguring, relocation, and replacement.

2. Except as provided in subsection (a)(3), no person shall install or modify any wireless telecommunications facility, or its supporting structure without first obtaining a wireless permit as prescribed by this Chapter.

3. The following work may be conducted without obtaining a wireless permit under this Chapter:

a. Work activity that makes no material change to the footprint of a wireless telecommunications facility or its supporting structure, or to the surface or subsurface of a street provided the activity does not change the visual or audible characteristics of a wireless telecommunications facility. The wireless telecommunications facilities manual may also exempt wireless telecommunications facilities that otherwise are subject to the provisions of this section from the obligation to obtain a wireless permit to install or modify a wireless telecommunications facility where it is determined that because of the physical characteristics of the facilities, and the work associated with them, such a permit is not required to protect the public health, welfare or safety, to maintain the character of a neighborhood or corridor, or to serve the purposes of this ordinance.

b. Work activity where wireless telecommunications facilities or their supporting structures are relocated or where certain maintenance and/or modifications must be accomplished in coordination with a street construction or maintenance project by the city, county or state transportation authorities that does not involve undergrounding utilities; however, the permit application system shall be used to notify the city of the work activity.

c. Routine operation or maintenance activities involving underground facilities but that do not include the excavation of paved street surfaces or disrupt or impede traffic in the traveled portion of a street. Examples of

this work include, but are not limited to, work in underground manholes, regulators, valves, splice vaults, regulator pits, leak survey, leak investigation and classification, pumping pits or vaults.

d. Installation of temporary wireless facilities.

e. The wireless telecommunications facilities manual may allow for installation of certain wireless telecommunications facilities on the strand between two utility poles without a wireless permit provided the exemption is limited to those cases where the appearance and cumulative volume of all wireless telecommunications facilities on the strand is comparable to other facilities commonly installed on strand; the facilities do not touch or interfere with other facilities or cause excessive strand sag; and provided further that the installation does not require replacement of the strand, or excavation, modification or replacement of the utility poles, or placement of any part of the wireless telecommunications facility, other than a meter and disconnect, on the ground or on the supporting structure.

4. Receipt of a wireless permit under this Chapter, or exemption from the obligation to obtain a wireless permit shall not relieve a permittee of the obligation to obtain other permits under other provisions of the City Code, including other Chapters of this Title, as may be required based on the specific nature of the work activity to be performed or the facility to be constructed or modified.

b. Compliance. Whether or not a wireless permit is required, every wireless telecommunications facility shall comply with general conditions for occupancy of the streets, as may be provided in the City Code or regulations and the wireless telecommunications facilities manual.

c. Revocation for RF non-compliance. City may deny an application for a wireless permit, revoke a permit, or require removal of a wireless telecommunications facility, or take any other action permitted under law if a wireless telecommunications facility is not in compliance with FCC regulations governing RF emissions.

d. Revocation for interference or hazard. City may deny an application for a wireless permit, revoke a permit, or require removal of a wireless telecommunications facility, or take any other action permitted under law if a wireless telecommunications facility would unduly interfere with the use of the streets by other persons, including other utilities; creates a health and safety hazard to persons or property; fails to comply with conditions of any wireless permit; or if, it becomes, or as proposed presents an undue risk of becoming a nuisance.

e. Wireless telecommunications facilities, placement standards, generally.

1. Wireless telecommunications facilities requiring a permit under this Chapter shall meet the minimum requirements set forth in this ordinance and the wireless telecommunications facilities manual.



2. The regulations in the wireless telecommunications facilities manual and decisions on applications for placement of wireless telecommunications facilities in the streets shall, at a minimum, ensure that the requirements of this section are satisfied, absent a showing that denial of an application would effectively prohibit the provision of personal wireless services as defined in 47 U.S.C. § 332 (c)(7)(C)(I), or otherwise violate applicable laws or regulations such that the city is required to approve the application. If an applicant establishes that the city is required to approve the application, the requirements of this ordinance and the wireless telecommunications facilities manual may be waived, but only to the minimum extent required to avoid the violation. Violations of applicable safety codes and requirements, including regulations governing RF emissions, may not be waived.

3. The placement of wireless telecommunications facilities shall be subject to such other rights as the city possesses with respect to the streets. Wireless telecommunications facilities shall be installed, where approved, in a manner that minimizes risks to public safety, where possible and practical, avoids placement of aboveground facilities in underground areas, avoids installation of new support structures or equipment cabinets in the streets and otherwise maintains the integrity and character of the neighborhoods and corridors in which the facilities are located; ensures that installations are subject to periodic review to minimize the intrusion on the streets; and ensures that the city bears no risk or liability as a result of the installations, and that such use does not incommode the public, interfere with the primary uses of the streets, or hinder the ability of the city or other government agencies to improve, modify, relocate, abandon or vacate the streets or any portion thereof, or to cause the improvement, modification, relocation, vacation or abandonment of facilities in the streets. All wireless telecommunications facilities shall be so located as to minimize interference with the proper use of public streets and other public ways and places, and to minimize interference with the rights or reasonable convenience of property owners who adjoin any of these public streets or other pre-existing utilities in the street.

4. Permits for wireless telecommunications facilities shall incorporate specific concealment elements to minimize visual impacts, and design requirements ensuring compliance with all standards for noise emissions, which permit shall be consistent with applicable requirements in the Wireless Telecommunications Facilities Manual.

**f. Placement on City-owned or controlled supporting structures in streets.**

1. The City, as a matter of policy, will negotiate agreements for use of City-owned or controlled light standards and traffic signals in the streets, except for those structures where the City placement of a wireless facility would be inconsistent with the design goals for the structure, or otherwise interfere with, or create undue risks for the public, the City's use of the structure, or others authorized to use or servicing the structure. The placement of wireless telecommunications facilities on those structures shall be subject to the agreement, and in addition will require a wireless permit. Specific placement

standards may be included in the wireless telecommunications facilities manual. However, it is the intent of the City that absent specific findings that approval is required or in the public interest, it will only enter into an agreement if the design is consistent with the design of the facility to which it is to be attached or which it is to replace and minimizes the overall impact on the structure and its surroundings; does not detract or interfere with the governmental uses of the structures; and imposes no additional costs or liabilities on the City.

2. No permit and no agreement for use of city owned or controlled light standards and traffic signals, shall be issued or effective unless it is shown that the wireless telecommunications facility will comply with Federal Communication Commission ("FCC") regulations governing radio frequency ("RF") emissions. Every wireless facility shall at all times comply with applicable FCC regulations governing RF emissions, and failure to comply shall be treated as a material violation of the terms of any permit or lease.

3. Charges for use of City-owned or controlled structures under this Section shall be established by the Director consistent with all applicable law, and may be updated from time to time in response to changes in law or policy, developments in the marketplace, or for any other reason in the Director's discretion.

**29:28-5. Wireless application procedures.**

a. Submission. An application for a wireless permit or for use of a City-owned or controlled supporting structure in the streets shall be submitted in the format and manner specified in the relevant section of the wireless telecommunications facilities manual.

b. Fees. As part of the application, the applicant shall submit an initial fee and must agree to pay the costs incurred by the city in reviewing the application. Fees shall be set forth in the wireless telecommunications facilities manual, or may be established in any other consistent with state law. Fees set forth in the wireless telecommunications facilities manual:

1. shall be designed to recover the costs the City in reviewing applications for wireless telecommunications facilities, including costs associated with outside consultants; and

2. shall be reviewed periodically and, may be increased or decreased based upon that review. The first review shall commence on or after the first anniversary of the effective date of this ordinance.

c. Completeness. Permit application forms that are not complete or do not include required fees may be rejected. Otherwise, applications will be processed, and notices of incompleteness provided, in conformity with applicable law.

d. Detail. If the submittal of plans or other documents is required, the plans and/or documents shall be legible and of a scale that accurately and clearly presents the detail of the proposed work. Plans or documents not meeting these requirements may be

rejected.

e. Historic District. All applications for installation of any equipment governed by this ordinance that is in a Historic District, must comply with all federal, state and local laws regulating Historic Districts.

f. Action by Director. The Director may approve, conditionally approve, or deny an application for a permit.

g. Approval. If an application is approved or conditionally approved, a permit shall be issued to the applicant, subject to appeal as provided herein.

h. Conditions on approval. If an application is conditionally approved, the Director may condition the permit with specified requirements that preserve and maintain the public health, safety, welfare, and convenience, and ensure compliance with provisions of this Code and applicable law.

i. Denial. An application may be denied if it does not comply with the requirements of the City Code, or of the wireless telecommunications facilities manual, or, in the case of supporting structures owned or controlled by the City, the City determines it is not in its interest to permit the use of the supporting structure. If an application is denied, the Director shall advise the applicant by a written, electronic, or facsimile communication of the basis for the denial.

j. Delinquent amounts must be paid. No action may be taken pursuant to an approved permit unless and until all delinquent amounts owed by the applicant to the city are fully paid.

k. Appeals. Any applicant adversely affected by an action of the Director's designee with respect to a wireless telecommunications facility may appeal the action to the Director by filing a notice of appeal with the department, and identifying the actions that are being appealed. The appeal must be received within seven (7) business days of the date the applicant is notified of the written decision, which notification may be electronic or by mail. The Director may decide the appeal based on the information submitted to the department, or receive additional information and conduct such public hearings as appropriate. In determining the procedures to be followed in a particular case the Director shall take into account any applicable law governing the timing for a final decision. The Director may enter into agreements or grant requests for extensions of time (including the time for filing an appeal), provided the extensions do not prevent timely final action on an application under applicable law. No decision on appeal shall be final until a written decision issues.

#### 29:28-6. Use of Funds.

The Director of the Department of Finance shall place all telecommunications fees paid to the City of Newark into a separate account.

**SECTION 4.** To the extent that any previous ordinance(s) are inconsistent with or contradictory

hereto, said ordinance(s) are hereby repealed or amended to the extent necessary to make it consistent herewith.

**SECTION 5.** The provisions of this Ordinance are severable. To the extent any clause, phrase, sentence, paragraph or provision of the Ordinance shall be declared invalid, illegal or unconstitutional, the remaining provisions shall continue in full force and effect.

**SECTION 6.** This ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

### **STATEMENT**

This Ordinance amends Title XXIX entitled “Streets and Sidewalks” of the Revised General Ordinances of the City of Newark, 2000, as amended and supplemented, to repeal and replace chapter 28 relating to the installation of communications facilities in the streets and make other related amendments to Title XXIX.