

**TOWNSHIP OF CRANFORD  
CRANFORD, NEW JERSEY**

**ORDINANCE NO. 2019-04**

**AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF CRANFORD,  
CHAPTER 367 STREETS AND SIDEWALKS**

**WHEREAS**, Township Committee of the Township of Cranford, New Jersey is aware that the telecommunications industry is rapidly developing and there is a strong desire among telecommunications companies to look for areas within municipalities for the placement of small cell wireless facilities, herein known as “small cells,” “5G towers” and “personal wireless service facilities” by accessing rights-of-ways within municipalities; and

**WHEREAS**, the rights-of-ways are municipal properties and provide a valuable resource to its citizens by permitting the public to travel freely over and across these designated properties without unreasonable encroachments or interference; and

**WHEREAS**, the Township Committee recognizes that the use of these properties must be managed carefully with the utmost consideration given to general welfare and best interest of its citizens; and

**WHEREAS**, the Federal Telecommunications Act (FTA) preserves a local government’s ability to “manage the public rights-of-way...on a competitively neutral and non-discriminatory basis.” (47 U.S.C. §253 (c)); and

**WHEREAS**, the FTA further preserves a local government’s authority over the “placement construction and modification of personal wireless service facilities.” (47 U.S.C. §332(c)(7)(A)); and

**WHEREAS**, the FTA makes it unlawful for a local government to prohibit or have the effect of prohibiting the provisions of personal wireless service (47 U.S.C. 332(c)(7)(B)(i)(II)); and

**WHEREAS**, the FTA provides that municipalities “shall not unreasonably discriminate among providers of functionally equivalent services” (47 U.S.C. §332(c)(7)(B)(i)(I)); and

**WHEREAS**, recent developments in wireless technology, specifically the development of 5G technology, involve the placement of small cells, cabinets and equipment in municipal rights-of-ways; and

**WHEREAS**, pursuant to N.J.S.A. 48:3-19 and N.J.S.A. 48:17-10 New Jersey municipalities must give consent before a small cell including a small antenna can be placed on existing poles or new poles erected within public rights-of-ways; and

**WHEREAS**, the Township Committee is committed to ensuring the safety of its citizens and preserving the aesthetic quality of its town and shall be in compliance with FCC regulations which directs that municipalities may impose restrictions on small cells which are: 1) reasonable; 2) no more burdensome than those applied to other types of infrastructure deployment; and 3) published in advanced; and

**WHEREAS**, the Township Committee may impose such regulations on related infrastructure including but not limited to small cells, all poles, antennas and cabinets located on municipal rights-of-ways; and

**WHEREAS**, the Township Committee has determined that the most efficient way to safely effectuate this process is to require all technology companies seeking to use municipal rights-of ways for the purpose of erecting telecommunication equipment must apply for and be granted permits for such use; and

**WHEREAS**, the Township Committee of the Township of Cranford has recommended that such additional provisions be mandatorily imposed within the Municipal Code as part of the anticipated telecommunication development of municipal rights-of-ways; and

**WHEREAS**, the Township Committee has determined that it is necessary to set forth clear standards in relation to the positioning of poles, cabinets and antennas for the benefit of its citizens and any utilities that use or seek to make use of Cranford's rights-of-ways; and

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Cranford that the Township of Cranford Municipal Code be amended as follows:

**Chapter 367 STREETS AND SIDEWALKS.** is hereby amended as follows:

**ARTICLE XI. § 367-53.**  
**RIGHTS-OF-WAYS FOR 5G TELECOMMUNICATIONS.**

**A. Purpose.**

It is the intent of this subsection to regulate the placement of telecommunications equipment, including poles, towers, antennas and other infrastructure located on municipal rights-of-ways:

**B. Definitions.**

The following terms used in this subsection shall have the following meanings:

5G— cellular technology that delivers faster speeds, low latency broadband services (smaller delay times) and which requires more infrastructure than its predecessors.

ADMINISTRATIVE REVIEW TEAM—municipal planner, engineer and zoning officer.

CABINET – small box-like or rectangular structure used to facilitate utility or wireless service from within the municipal right-of-way.

COLOCATION – the use of a common wireless telecommunications tower or a common structure, by two or more wireless license holders or unlicensed holders nevertheless regulated by the Federal Communications Commission or by one wireless license holder for more than one type of communications technology and/or placement of a wireless telecommunications tower on a structure owned or operated by a utility or other public entity.

POLE or WIRELESS POLE- column or post located within the municipality's right-of-way upon which telecommunications equipment may be mounted for the purpose of providing personal wireless services as defined by federal law.

POLE MOUNTED ANTENNA – 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.

PUBLIC RIGHT-OF-WAY – the surface of and the space above, any public street, road, lane, path, public way or place, sidewalk, alley, boulevard, parkway, drive and the like, held by the municipality as an easement or in fee simple ownership, or any other area that is determined by the municipality to be a right-of-way in which the municipality may allow the installation of telecommunications facilities.

RIGHT-OF-WAY AGREEMENT – 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.

RIGHT-OF-WAY PERMIT – an approval from the municipality setting forth the applicant’s compliance with the requirements of this Ordinance.

SMALL CELL EQUIPMENT—wireless facilities and transmission media including femtocells, picocells and microcells; Outside Distributed Antenna Systems (“ODAS”)

SMALL CELL FACILITY OR TELECOMMUNICATIONS FACILITY – any structure or device used for the purpose of providing, supporting, enabling or otherwise facilitating telecommunications, including but not limited to Small Cell Equipment, Wireless Poles, as defined herein.

SURROUNDING STREETSCAPE—includes existing poles within the same right-of-way that are located within five hundred (500) feet of the proposed pole.

C. AGREEMENTS.

1. No person or entity shall operate or place any type of pole mounted antenna within the municipal right-of-way without first entering into a right-of-way agreement pursuant to the provisions of this section.
2. The term of said right-of-way agreement shall include:
  - a. A term not to exceed fifteen (15) years;
  - b. Reasonable insurance requirements;
  - c. Designation of an individual as a point-of-contact available during business hours;
  - d. Imposed fines for unauthorized installations;
  - e. Requirements regarding the repair, maintenance and relocation of the equipment;
  - f. A reference to the siting standards set forth in this section; and
  - g. Any other items which may reasonably be required.
3. Application to utilities regulated by the Board of Public Utilities, other entities.
  - a. Notwithstanding any franchise or right-of-way agreement to the contrary, all facilities proposed to be placed within the municipal right-of-way by a utility regulated by the Board of Public Utilities, or any other entity lawfully within the municipal right-of-way, shall be subject to the standards and procedures set for the in this article and shall require right-of-way permits for the siting of poles, antennas and cabinets in the municipal right-of-way.

D. RIGHT-OF-WAY PERMITS, SITING STANDARDS FOR POLES, ANTENNAS AND CABINETS IN THE RIGHT-OF-WAY.

1. No pole, antenna or cabinet shall be installed within the municipal right-of-way without the issuance of a right-of-way permit.
2. Pole siting standards.
  - a. Height: No pole shall be taller than thirty-five (35) feet or 110% of the height of the poles in the surrounding streetscape, whichever is taller.
  - b. Distance from the curb line: No pole shall be closer than eighteen inches from the curb line.

- b. Location, safety and aesthetics: No pole shall be erected in the right-of-way unless it:
- i. Is used to bring utility service across the right-of-way to an existing or proposed development from an existing pole; or
  - ii. Is replacing an existing pole; or
  - iii. Has been approved pursuant to the Application process as defined by this code; or
  - iv. Is located on the opposite side of the street from the electric distribution system; and
  - v. For sites in any residential zone, is two hundred linear feet from any other existing pole or proposed pole along the same side of the street or for sites in any other zone, is at least one hundred linear feet from any other existing pole or proposed pole along the same side of the street; and
  - vi. Is not located in an area with underground utilities; and
  - vii. Does not interfere with any existing sight triangles or sight distance; and
  - viii. Allows adequate room so as not to impede the public's or municipality's use of the right-of-way; and
  - ix. Is finished and/or painted and otherwise camouflaged, in conformance with best available technology methods, so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and
  - x. If in a historic district of the municipality, has been reviewed and approved by the historic preservation committee.
  - xi. Any necessary equipment is permitted on a pole where said pole otherwise conforms with the standards set forth in § 367-53(D)(2).
3. Ground level cabinet site standards.  
Ground level cabinets are permitted only if placement on a pole is not possible or feasible. No ground level cabinet shall be installed unless it:
- a. Is less than twenty-eight cubic feet in volume; and
  - b. Is finished and/or painted so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and
  - c. Does not interfere with any existing sight triangles or sight distance; and
  - d. Allows adequate room so as not to impede the public's or municipality's use of the right-of-way.
4. Pole mounted antenna and pole mounted cabinet siting standards.  
Pole mounted antennas are permitted on existing poles in all zones, provided that each pole mounted antenna:
- a. Does not exceed three cubic feet in volume; and
  - b. Is finished and/or painted and otherwise camouflaged, in conformance with best available technology methods, so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and

- c. Does not interfere with any sight triangles or sight distance; and
  - d. Allows adequate room so as not to impede the public's or municipality's use of the right-of-way.
- 5. Pole mounted cabinets are permitted on existing poles in all zones, provided that each pole mounted cabinet:
  - a. Does not exceed sixteen cubic feet; and
  - b. Is finished and/or painted and otherwise camouflaged, in conformance with best available technology methods, so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and
  - c. Does not interfere with any sight triangles or sight distance; and
  - d. Allows adequate room so as not to impede the public's or municipality's use of the right-of-way.
- 6. The municipality may in its discretion 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.

E. PERMIT APPLICATION PROCESS.

- 1. Pre-application meeting. Prior to submitting a formal application to the municipality for use of the municipal right-of-way, all applicants are advised to meet with the municipal engineer to review the scope of the applicant's proposal.
- 2. Review Process.
  - a. Application for attachments to third-party utility infrastructure will be reviewed through an administrative review process by the administrative review team. Prior to approval of any application, the municipality may in its discretion ask the applicant to hold a public open house and provide notice of same by regular mail to all property owners identified by the municipal engineer as requiring notice. Applicant shall also provide evidence of permission to use the infrastructure from the third-party property owner.
  - b. Applications for attachments to municipality-owned infrastructure will be reviewed through an administrative review process by the administrative review team. Prior to approval of any application, the municipality may in its discretion ask the applicant to hold a public open house and provide notice of same by regular mail to all property owners identified by the municipal engineer as requiring notice.
  - c. Any siting standard set forth herein may be waived 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 in its 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; or

iv. Will prohibit, or have the effect of prohibiting, the ability of an entity to provide utility service to any prospective customer within the municipality.

- d. All Applications made under this section shall be expedited so as to comply with the requirements of FCC rules and regulations.
- e. Every application made pursuant to this article shall include a stamped survey prepared by a New Jersey licensed surveyor demonstrating that any proposed pole is located within the municipal right-of-way. An application which does not include such a survey shall immediately be deemed incomplete.
- f. New poles and ground level cabinets shall be reviewed as outlined herein. In an application is denied, the factual basis for such denial will be provided in writing to the applicant.
- g. Pole mounted antenna and pole mounted cabinets shall be reviewed as outlined herein. If an application is denied the factual basis for such denial will be provided in writing to the applicant.
- h. An appeal from a final decision made by the administrative review team shall be made to the Township Committee.

3. Permit Fees and Charges.

- a. Permit application fee. Every right-of-way permit application shall include an application fee in the following amounts: 1-5 poles-\$500.00; each additional pole submitted simultaneously, \$100.00.
- b. Right-of-way use fee.  
In exchange for the privilege of non-exclusive occupancy of the right-of-way, the successful applicant shall pay to the municipality an annual fee of \$500.00 for the use of each pole in the right-of-way, and \$100.00 per month for each municipally-owned facility on which its equipment is deployed. The initial fee shall be due and payable within thirty days of installation of the equipment, and on the anniversary date of the installation each year thereafter. Commencing on the fifth anniversary thereafter, the right-of-way use fee shall be adjusted by a percentage amount equal to the percentage change in the U.S. Department of labor, Bureau of Labor Statistics consumer price index which occurred during the previous five-year period for the New York-Northern New Jersey-Long Island, NY-NJ-PA metropolitan statistical area (MSA).
- c. Escrow deposit towards anticipated municipal expenses.  
An escrow shall be posted to cover the anticipated municipal expenses associated with the permit. The township engineer shall set the escrow amount with the minimum amount set at \$500.00. If the deposit balance contains insufficient funds to enable the municipality to perform its review, the chief financial officer shall provide applicant with a notice of insufficient balance. In order for the review to continue, the applicant shall, within ten days post a

deposit to the account in an amount to be mutually agreed upon. The chief financial officer shall upon request by the applicant and after a final decision has been made regarding the pending right-of-way permit application, refund any unused balance from applicant’s escrow deposit account.

4. Miscellaneous Provisions.

- a. Any approval received pursuant to this article shall not relieve the applicant from receiving consent from the owner of the land above or on which the applicant’s facility may be located as may be required under New Jersey law.
- b. Applicant must, in addition to receiving a right-of-way permit, also receive all necessary road opening permits, construction permits, and other requirements set forth in Cranford’s Municipal Code or applicable state statutes.
- c. Cranford’s consent for the use of country 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, except that the applicant shall not be required to enter into a right-of-way agreement with the municipality.

Introduced: April 9, 2019  
Adopted: April 30, 2019

Approved:

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Patrick F. Giblin  
Chairman, Township Committee

Attest:

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Patricia Donahue, RMC  
Municipal Clerk

Recorded Vote	Introduced	Adopted
Thomas H. Hannen, Jr.	Aye	Aye
Ann Dooley	Aye	Aye
Jean-Albert Maisonneuve	Aye	Aye
Patrick F. Giblin	Aye	Aye
Mary O’Connor	Aye	Aye