

# RESOLUTION OF THE TOWNSHIP OF IRVINGTON, NJ

No. **DPW 19-1015-28**

Date of Adoption **OCTOBER 15, 2019**

APPROVED AS TO FORM AND LEGALITY ON THE BASIS OF FACTS SET FORTH BY

*Legislative Research Officer*

PRESENTED BY COUNCIL MEMBER **COX**

SECONDED BY **BURGESS**

## RESOLUTION OF THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON

WHEREAS, New Cingular Wireless PCS, LLC ("AT&T") is a provider of commercial Mobile Service subject to regulation by the Federal Communications Commission; and

WHEREAS, AT&T has entered into agreements with parties that have the lawful right to maintain poles in the public right-of-way pursuant to which AT&T may use such poles erected within the public right-of-way in the Township of Irvington; and

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

NOW THEREFORE BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON, COUNTY OF ESSEX, STATE OF NEW JERSEY THAT:

1. Permission and authority are hereby granted to AT&T and its successors and assigns, to use poles erected by parties that have the lawful right to maintain poles within the public right-of-way in the Township of Irvington, subject to the following:

A. AT&T, 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. AT&T, 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 Irvington.

C. Such permission be and is hereby given upon the condition and provision that AT&T, and its successors and assigns, shall indemnify, defend and hold harmless the Township of Irvington, its officers, agents, and servants, from any claim of liability or loss or bodily injury or property damage resulting from or arising out of the acts or omissions of AT&T or its agents in connection with the use and occupancy poles located within the public right-of-way, except to the extent resulting from the acts or omissions of the Township of Irvington.

D. AT&T shall, at its own cost and expense, maintain commercial general liability insurance with limits not less than \$1,000,000 for injury to or death of one or more persons in any one occurrence and \$500,000 for damage or destruction to property in any one occurrence. AT&T shall include the Township of Irvington as an additional insured. AT&T may meet all or a portion of this insurance coverage and limit requirement by self-insurance so long as it provides evidence demonstrating its financial ability to meet the insurance coverage and limit requirement. If AT&T elects to self-insure, it is not required to name additional insureds under this section.

E. AT&T 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 Irvington nor AT&T shall be liable to the other for consequential, incidental, exemplary, or punitive damages on account of any activity pursuant to this instrument.

G. This instrument shall be adopted on behalf of the Township of Irvington by the Municipal Council of the Township of Irvington and attested to by the Township of Irvington Clerk who shall affix the Township of Irvington Seal thereto.

ADMINISTRATOR ☐ ASSESSOR ☐ BLDG ☐ CFO ☒ COLLECTOR ☐ COURT ☐ EDGO ☐ ENGINEER ☒ FIRE ☒ HEALTH ☐ HOUSING ☐ INIC ☐  
JUDGE ☐ LEGAL ☒ LIBR ☐ LICEN ☐ MAYOR ☐ NPP ☐ OCDP ☐ PARKS ☐ PAYROLL ☐ PUBLIC SAFETY ☒ DIR ☐ PUBLIC WORKS ☒ PURCHASING ☐  
SEC ☒ PB/ZBA ☐ TRAFFIC ☐ ZONING ☒ OFF ☐ DLGS ☐ GNCD ☐ OTHER(S): \_\_\_\_\_

H. The permission and authority hereby granted shall continue for the same period of time as the grant to parties whose poles AT&T is using.

### STATEMENT

This resolution authorizes AT&T to use poles erected within the public right-of-way of the Township of Irvington by parties that have the lawful right to maintain such poles.

### RECORD OF COUNCIL VOTE

X = Indicates Vote    N.V. = No Vote    A.B. = Absent

COUNCIL MEMBER	YES	NO	N.V.	A.B.	COUNCIL MEMBER	YES	NO	N.V.	A.B.
BEASLEY	X				DR. HUDLEY	X			
BURGESS	X				INMAN	X			
COX	X				VICK	X			
FREDERIC	X								

PRESIDENT OF COUNCIL [Signature] MUNICIPAL CLERK [Signature] DATE October 15, 2019

I hereby certify that the foregoing is a true copy of a Resolution duly adopted by the Municipal Council. In witness whereof I have hereunto set my hand and the Corporate Seal of the Township of Irvington.

MUNICIPAL CLERK [Signature] DATE OCT 15 2019

ADMINISTRATOR ☐ ASSESSOR ☐ BLDG ☐ CFO ☐ COLLECTOR ☐ COURT ☐ EDGO ☐ ENGINEER ☐ FIRE~CF ☐ HEALTH ☐ HOUSING ☐ INIC ☐  
 JUDGE ☐ LEGAL ☐ LIBR ☐ LICEN ☐ MAYOR ☐ NPP ☐ OCDP ☐ PARKS ☐ PAYROLL ☐ PUBLIC SAFETY~DIR ☐ PUBLIC WORKS ☐ PURCHASING ☐  
 SEC~PB/ZBA ☐ TRAFFIC ☐ ZONING~OFF ☐ DLGS ☐ GNCD ☐ OTHER(S): \_\_\_\_\_





September 6, 2019

Township of Irvington  
ATTN: Harold E. Weiner, Municipal Clerk  
1 Civic Square  
Municipal Building Room 116  
Irvington, NJ 07111

Dear Mr. Weiner:

New Cingular Wireless PCS, LLC ("AT&T") is in the process of planning to upgrade and enhance its wireless network by deployment of small network nodes in the public rights-of-way. Part of the planning process includes securing the relevant permissions necessary for that deployment, which will benefit Township of Irvington and its residents by delivering increased data capacity, faster connectivity speeds, and ensuring public safety resulting in an overall better wireless experience.

Obtaining consent from jurisdictions to locate and operate in the public rights-of-way is the first level of permission that AT&T seeks. AT&T requests non-site-specific consent granting permission to locate and operate in the Township's public rights-of-way by attaching to existing and new utility poles, and would later obtain any required site-specific permits for each node through the building department. As such, AT&T is requesting consent from the Municipal Council of the Township of Irvington to use facilities lawfully erected in the public rights-of-way for small network nodes, and respectfully requests to be placed on the next available agenda for consideration of this request by the Municipal Council.

To facilitate this request, AT&T has provided a fact sheet with details of the proposal, copies of an informational brochure that can be distributed to any interested parties in the Township, a proposed form resolution for adoption by the Municipal Council, and relevant statutes for reference.

By way of the above, AT&T hereby submits this application for authorization by the Municipal Council of the Township of Irvington to locate and operate small network nodes in the Township's public rights-of-way by attaching to existing and new utility poles.

Questions about this proposal can be directed to Kathryn Windsor at [kw8634@att.com](mailto:kw8634@att.com) or via phone at (816) 351-6208.

A handwritten signature in blue ink, appearing to read "Kathryn Windsor".

Kathryn Windsor  
AT&T Project Manager  
Date: 09/06/19

AT&T  
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3A207  
Bedminster, NJ 07921