

## ORDINANCE 2020-01

### ORDINANCE OF THE BOROUGH OF BELMAR, AMENDING CHAPTER XXIX WATER SEWER UTILITY DEPARTMENT OF THE REVISED GENERAL ORDINANCES

**WHEREAS**, the Borough of Belmar Mayor and Council wish to amend certain sections of Chapter XXIX, Water – Sewer Utility Department.

**NOW, THEREFORE, BE IT ORDAINED** by the Borough of Belmar, County of Monmouth, New Jersey, that Chapter XXIX, of the Borough of Belmar Revised General Ordinances are hereby amended and supplemented as follows:

**SECTION I.** Chapter XXIX is hereby amended and supplemented as follows:

#### **29-2.4 Tapping and Retapping of Mains.**

All water or sewer service taps are to be made by the Water-Sewer Utility Department where possible or its authorized licensed contractors ~~authorized agents~~ in every case with charges as per schedule according to size of tap desired. ~~If determined by the Water-Sewer Superintendent or Borough Engineer that an outside contractor should be hired, the applicant will be responsible for all charges.~~ It is expressly understood that the Homeowner ~~Borough~~ shall be the owner of the service from the city main to the house curb line, as well as curb stops, valves, curb boxes, and roadway boxes which are to be used by the Water-Sewer Utility Department for turning on or shutting off the water supply.

#### **~~29-3.3 Ownership.~~**

~~All meters, meter receptacles, and volume readout device shall be furnished by the Department and shall remain the property of the Borough.~~

#### **29-3.5 Meter Readings.**

Water meters for private premises will be read quarterly, as provided by subsection 29-7.1. The readings shall be conclusive on all parties except where it has been determined that the meter has been registering incorrectly. In cases where the meter has been registering incorrectly, the meter shall ~~either be repaired or~~ replaced and an adjusted bill shall be rendered in the same manner set forth in subsection 29-3.6, provided that if the meter has not been registering at all, the adjusted bill shall be equal to the next regular quarterly reading after the meter is ~~repaired or~~ replaced. If the faulty registration is due to damage to the meter occurring after the meter was installed on the property, the owner shall be required to pay for the repair or replacement of the meter as required by subsection 29-3.4.

Any interested party may request an interim meter reading for any purpose. The request must be in writing on a form prescribed by the Municipal Clerk and must be accompanied by a fee of fifty (\$50.00) dollars. Interim meter readings may be used for the purpose of paying water

charges to the date of the interim reading (for example, in connection with real estate closings), but will not alter the schedule for regular quarterly readings pursuant to subsection 29-7.1.

**29-6.3 Nonpayment of Water/Sewer Charges and Penalty on Unpaid Balance.**

Effective May 1, 2007, on the thirtieth day after payment of the bill is due, interest on the unpaid amount of the bill shall accrue at a rate of eighteen (18%) percent per annum to be calculated from the due date of the bill until the date of actual payment.

~~Also, effective March 1, 2004, any charges that are not paid within ninety (90) days of the original billing will be considered delinquent, and may have their water service terminated by the Borough or its authorized agent. Such service shall be restored only upon payment in full of all water-sewer charges, including all interest accrued thereon and a restoration fee in accordance with subsection 29-6.4a.~~

Prior to any water service being disconnected for nonpayment of water-sewer charges, the Borough or its agent shall provide ten (10) days written notification to the user of the Borough's intention to disconnect the water service. Notification shall be made by ordinary mail to the customer's last known address as it appears on the tax duplicate.

All unpaid fees and charges shall constitute a lien on the real property for or to which the service was provided, which liens shall be enforced and collected in the manner prescribed by law.

**29-7.1 Water/Sewer Rates.**

- d. Billing for the water-sewer services shall be conducted as follows: Bills will be prepared and sent on a quarterly basis. ~~Said bills will be split into three (3) equal monthly payments and will be due on the first of the three (3) following months. Bills will be prepared in the following manner:~~

~~Quarterly Billing Cycle~~

<i>Mailing Date</i>	<i>Type of Bill</i>	<i>Due Date</i>
March 10	1/3 Actual Read	April 1
⋮	1/3 Actual Read	May 1
⋮	1/3 Actual Read	June 1
June 10	1/3 Actual Read	July 1
⋮	1/3 Actual Read	August 1
⋮	1/3 Actual Read	September 1
September 20	1/3 Actual Read	October 1

⋮	1/3 Actual Read	November 1
⋮	1/3 Actual Read	December 1
December 10	1/3 Actual Read	January 1
⋮	1/3 Actual Read	February 1
⋮	1/3 Actual Read	March 1

**SECTION II.** If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudicated and the remainder of the Ordinance shall be deemed valid and effective.

**SECTION III.** All Ordinances or parts of ordinances inconsistent with or in conflict with the ordinance are hereby repealed to the extent of such inconsistency

**ORDINANCE NO. 2020-02**

**ORDINANCE OF THE BOROUGH COUNCIL, BOROUGH OF BELMAR, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, CREATING NEW CHAPTER XLIII OF THE BOROUGH CODE ENTITLED “PLACEMENT OF SMALL CELL EQUIPMENT AND WIRELESS POLES IN THE PUBLIC RIGHT-OF-WAY”**

**WHEREAS**, the Mayor and Council of the Borough of Belmar (hereinafter "Borough") is aware that certain technological developments have made access to its Public Rights-of-Way desirable by certain telecommunications companies; and

**WHEREAS**, the Borough has determined that its Public Rights-of-Way, such as they are or may be, themselves constitute a valuable resource, finite in nature, and which exists as a common right of the public to pass and repass freely over and across said lands without unreasonable obstruction or interference, and which therefore must be managed carefully; and

**WHEREAS**, the Federal Telecommunications Act preserves 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 Federal Telecommunications Act preserves 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 Federal Telecommunications Act makes it unlawful for local government to prohibit or have the effect of prohibiting the provision of personal wireless service. 47 U.S.C. §332(c)(7)(B)(i)(H); and

**WHEREAS**, New Jersey municipalities may give consent for the placement of Small Cell Equipment on poles lawfully erected within the Public Rights-of-Way pursuant to N.J.S.A. 48:3-19 and for the erection of Wireless Poles within the Public Rights-of-Way pursuant to N.J.S.A. 48:17-10; and

**WHEREAS**, the Borough has determined that it is necessary to set forth clear standards in relation to the siting of Small Cell Equipment and Wireless Poles within the Public Rights-of-Way for the benefit of its citizens and any utilities which use or will seek to make use of said Public Rights-of-Way.

**NOW, THEREFORE, BE IT HEREBY ORDAINED** by the Borough Council of the Borough of Belmar that new Chapter XLIII of the Borough Code entitled “Wireless Communications, Towers and Antennas” is hereby created and will read as follows:

**SECTION 1.** Chapter 43-1 of the Borough Code entitled "Placement of Small Cell Facilities and Wireless Poles in the Public Right-of-Way" shall read as follows:

**A. Purpose.** The purpose and intent of this Section is to:

- (a) Establish a local policy concerning Small Cell Equipment and Wireless Poles.
- (b) Conserve the limited physical capacity of the Public Rights-of-Way held in public trust by the Borough and the County.
- (c) Assure that any and all Telecommunications Carriers providing Telecommunications Services in the Borough through Small Cell Equipment and Wireless Poles, comply with the laws, rules and regulations of the Borough.
- (d) Assure that the Borough can continue to fairly and responsibly protect the public health, safety and welfare.
- (e) Enable the Borough to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition, and technological development.

This section is intended to be in addition to, and not in lieu of, any other statutes, rules and regulations applicable to small cell facilities and wireless poles. Nothing herein shall abrogate any federal, state, or local regulation applicable to small cell facilities and wireless poles.

**(1) Definitions.**

- (a) As used in this Chapter, the following terms shall have the following meanings:
  - [1] "Anticipated Municipal Expenses" means the cost of processing an application to place Small Cell Equipment or Wireless Poles in the Public Right-of-Way including, but not limited to, all professional fees such as engineer and attorney costs.
  - [2] "Alternative Tower Facility" means an existing or proposed structure that is compatible with the natural setting and surrounding structures and that camouflages or conceals the presence of the antennae and can be used to house or mount a personal wireless telecommunication service antenna. Examples include manmade trees, clock towers, bell steeples, light poles, silos, existing utility poles, existing utility transmission towers and other similar alternative designed structures.
  - [3] "Applicant" means the person or entity seeking to place Small Cell Equipment or Wireless Poles within the Public Right-of-Way.
  - [4] "Existing Pole" means a Wireless Pole, or pole owned by an Incumbent Local Exchange Carrier, Competitive Local Exchange Carrier, Electric Distribution Company or other company that is in lawful existence within the Public Right-of-Way. It shall not include an antenna, monopole, or preexisting towers and preexisting antennas.
  - [5] "Municipal Facilities" means any property, both real and personal, including physical installations in the Public Right-of-Way that is owned by the Borough.
  - [6] "Public Right-of-Way" means 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 Borough or County as an easement or in fee simple ownership, or any other area that is determined by the Borough or County to be a right-of-way in which the Borough may allow the installation of Small Cell Equipment and Wireless Poles or other telecommunications facilities.

- [7] "Personal Wireless Service" means a type of 'commercial mobile radio service' (as that term is defined in 47 CFR 20.3) as listed at 47 CFR 20.9(a)(11) and as defined at 47 CFR 24.5, and provided by the use of 'personal wireless service facilities' (as such phrase is defined in section 704 of the Federal Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat 56 (1996), partially codified at 47 U.S.C. 332(c)(7)(C)(ii).
- [8] "Professional Survey" means a raised seal stamped survey completed by a duly licensed surveyor.
- [9] "Small Cell Equipment: and Small Cell Facility means any of the following that are attached, mounted or installed on an Existing Pole or Wireless Pole in the Public Rights-of-Way and used to provide Personal Communications Services:
- [a] Wireless Facilities and Transmission Media, including femtocells, picocells and microcells;
  - [b] Outside Distributed Antenna Systems (ODAS)
  - [c] A personal wireless service facility as defined by the Federal Telecommunications Act of 1996, as amended as of August 6, 2014; or
  - [d] A wireless service facility that meets both of the following qualifications:
    - [i] Each antenna is located inside an enclosure of no more than three (3) cubic feet in volume or, in the case of an antenna that has that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three (3) cubic feet; and
    - [ii] Primary equipment enclosures are not larger than seventeen (17) cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, and cut-off switch.
- [10] "Small Cell Network" means a collection of interrelated small cell facilities designed to deliver wireless service.
- [11] "Telecommunications" means the transmission by wire, radio, optical, or any electromagnetic system, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.
- [12] "Telecommunications Carrier" means any provider of Telecommunications Services.
- [13] "Telecommunications Facility" means 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.
- [14] "Telecommunications Service(s)" means the offering of Telecommunications to the public, regardless of the Telecommunications Facilities used.

- [15] "Borough Council" means the Borough Council of the Borough of Belmar.
- [16] "Borough Engineer" means the person appointed to be Borough Engineer for the Borough of Belmar pursuant to N.J.S.A. 40A:9-140.
- [17] "Wireless Pole" means a column or post lawfully located in the Public Right-of-Way used solely to support Small Cell Equipment and/or provide Personal Wireless Service.
- [18] "Zone, Non-Residential" means the zones designated in Section 40-5 of Chapter XL of the Revised General Ordinances of the Borough of Belmar as zones CBD, B-C, MC, PB and PO.
- [19] "Zone, Residential" means any zones permitting single-family, two-family, or multifamily residences, assisted-living residences, nursing homes, and/or residential health care facilities.

**(2) Applicability.**

- (a) Any Telecommunications Carrier wishing to place Small Cell Equipment and/or Wireless Poles in the Public Right-of-Way must first enter into a Master License Agreement with the Borough. The placement of specific Small Cell Equipment onto Existing Poles or the erection of Wireless Poles shall require the issuance of a supplemental license from the Borough Council based on recommendations by the Borough Engineer.
- (b) If the Borough's Land Use and Development Ordinances require site plan approval, or the approval of any variances from the Borough Planning and Zoning Board, the applicant shall be required to secure any approvals and/or variances following the grant of a license under this Chapter. A Planning and Zoning Board application for the construction, installation, or location for Telecommunications Facilities shall not be deemed complete until a license under this Chapter is granted by the Borough.
- (c) Collocation. The shared use of existing freestanding or roof-mounted facilities shall be preferred to the construction of new facilities in order to minimize adverse visual impacts associated with the proliferation of towers.

[1] No application to construct a new freestanding or roof-mounted personal wireless telecommunication service facility shall be approved unless the Applicant demonstrates to the reasonable satisfaction of the Borough that no existing personal wireless telecommunication service facility within a reasonable distance, regardless of municipal boundaries, can accommodate the Applicant's needs. Evidence submitted to demonstrate that no existing personal wireless telecommunication service facility can accommodate the Applicant's proposed facility shall consist of one (1) or more of the following:

- [a] No existing facilities are located within the geographic area required to meet the Applicant's coverage demands.
- [b] Existing facilities or structures are not of sufficient height to meet the Applicant's coverage demands and cannot be extended to such height.
- [c] Existing facilities or structures do not have sufficient structural strength to support Applicant's proposed antenna and related equipment.

- [d] Existing facilities or structures do not have adequate space on which proposed equipment can be placed so it can function effectively and reasonably.
  - [e] The Applicant's proposed antenna would cause electromagnetic interference with the antennas on the existing facility, or the antennas on the existing facility would cause interference with the Applicant's proposed antenna.
  - [f] The Applicant demonstrates that there are other compelling limiting factors, including but not limited to economic factors, that render existing facilities or structures unsuitable.
- [2] No Telecommunications Carrier or operator shall unreasonably exclude a telecommunication competitor from using the same facility or location. Upon request by the Borough, the owner or operator shall provide evidence and a written statement to explain why collocation is not possible at a particular facility or site.
  - [3] If a telecommunication competitor attempts to collocate a personal wireless telecommunication service facility on an existing or approved facility or location, and the parties cannot reach an agreement, the Borough may require a third-party technical study to be completed at the Applicant's expense to determine the feasibility of collocation.
  - [4] Applications for new freestanding personal wireless Telecommunication Facilities shall provide evidence that the facility can accommodate collocation of additional carriers.
  - [5] A Telecommunications Carrier who is issued a license pursuant to this Section who wishes to add, supplement, or modify the Telecommunications Facility for which the license was previously granted shall be required to obtain a new license in accordance with the procedures established by this Section except that no new license shall be required if the addition, supplement or modification does not materially change the overall size, dimensions or appearance of the Telecommunications Facility.
  - [6] Any person who desires a license pursuant to this Section shall file an application with the Borough Administrator. The application shall include the following information:
    - [a] The identity of the license applicant, including all affiliates of the applicant.
    - [b] A description of the Telecommunications Services that are or will be offered or provided.
    - [c] A description of the Telecommunications Facility(ies).
    - [d] A description of the transmission medium that will be used by the licensee to offer or provide Telecommunications Services.
    - [e] Preliminary engineering plans, a survey, specifications, and a network map of the Telecommunications Facility to be located within the Borough, all in sufficient detail to identify:
      - [i] The location and route requested for applicant's proposed Telecommunications Facility.
      - [ii] The location of all antennae, cells and nodes for applicant's proposed Telecommunications Facility.

- [iii] The location of all overhead and underground public utility, telecommunications, cable, water, sewer drainage and other facilities in the public way along the proposed route.
  - [iv] The specific trees, structures, improvements, facilities and obstructions, if any, that applicant proposes to temporarily or permanently remove, relocate or alter.
- (d) Federal Requirements. All personal wireless Telecommunication Facilities shall meet the current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate personal wireless telecommunication service facilities. Failure to meet such revised standards and regulations shall constitute grounds for revocation of Borough approvals and removal of the facility at the owner's expense.
- (e) Safety Standards. All personal wireless Telecommunication Facilities shall conform to the requirements of the international building code and national electrical code, as applicable.
- (f) Abandonment. Personal wireless Telecommunication Facilities which are abandoned by nonuse, disconnection of power service, equipment removal or loss of lease for greater than six (6) months shall be removed by the facility owner. Should the owner fail to remove the facilities, the Borough may do so at its option, and the costs thereof shall be a charge against the owner and recovered by certification of the same to the county treasurer for collection as taxes. If an owner wishes to begin utilizing abandoned equipment again, it must submit a new application.
- (h) Third Party Review.
  - [1] Telecommunications Carriers use various methodologies and analysis tools, including geographically based computer software, to determine the specific technical parameters of facilities, such as expected coverage area, antenna configuration and topographic constraints that affect signal paths. In certain instances there may be a need for expert review by a third party of the technical data submitted by the provider. The Borough may require such a technical review to be paid for by the Applicant for a Telecommunications Facility. The selection of the third party expert may be by mutual agreement between the Applicant and the Borough or at the discretion of the Borough, with a provision for the Applicant and interested parties to comment on the proposed expert and review its qualifications. The expert review is intended to be a site-specific review of technical aspects of the facilities and not a subjective review of the site selection. The expert review of the technical submission shall address the following:
    - [a] The accuracy and completeness of the submission;
    - [b] The applicability of analysis techniques and methodologies;
    - [c] The validity of conclusions reached;
    - [d] Financial statements prepared in accordance with generally accepted accounting principles demonstrating the applicant's financial ability to construct, operate, maintain, relocate and remove the telecommunications facilities.

- [e] Information to establish the applicant's technical qualifications, experience and expertise regarding the Telecommunications Facilities and Telecommunications Services described in the application.
  - [f] Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the Telecommunications Facilities and to offer or provide the Telecommunications Services.
  - [g] Information to establish that the Telecommunications Facility meets the current standards and regulations of any agency of the federal government with the authority to regulate telecommunications facilities.
  - [h] Information to establish that the proposed telecommunications facility conforms to the requirements of the international building code and national electrical code, as applicable.
  - [i] Any specific technical issues designated by the Borough.
- [2] Based on the results of the third party review, the Borough may require changes to the application for the facility that comply with the recommendation of the expert.

**(3) Master License Agreement.**

- (a) A Master License Agreement entered into pursuant to this Chapter shall include the following provisions:
  - [1] The term shall not exceed twenty-five (25) years.
  - [2] The following conditions shall apply to the issuance of site specific supplemental licenses for:
    - [a] Small Cell Equipment
      - [i] The proposed installation must not be in excess of the height of the Existing Pole, before the installation, plus six (6) feet.
      - [ii] The proposed installation shall be constructed, finished, painted and otherwise camouflaged, in conformance with best available stealth technology methods, so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties.
      - [iii] Proposal must include an engineer's certification verifying the structural integrity of the pole.
      - [iv] The placement of equipment cabinets along with any Small Cell Equipment installation must conform to the following:
        1. For sites located within Non-Residential Zones, no pole-mounted Small Cell Equipment may project beyond the side of the pole more than thirty (30) inches.
        2. Except for in a flood zone, no ground-mounted Small Cell Equipment (i) may exceed seven (7) feet in height, (ii) occupy more than thirty-six (36) square feet of ground area, (iii) be located more than fifteen (15) feet from the Existing Pole,

(iv) may fail comply with required sight triangles and breakaway design in accordance with AASHTO regulations. However, Applicant may seek relief from this requirement from the Zoning Board of Adjustment pursuant to N.J.S.A. 40:55D-70(d)(1).

[v] No Small Cell Equipment shall be placed within five hundred (500) feet of an existing Small Cell Equipment installation. This shall not preclude the collocation of two such facilities on the same pole, or within the same vault.

[iv] The cumulative size of a Small Cell Equipment installation for any one site shall not exceed twenty (20) cubic feet.

[3] Wireless Poles

[a] Wireless Poles are are not permitted in Residential Zones that, as of June 30, 2018, do not have wooden utility poles of any kind already installed. However, Applicant may seek relief from this requirement from the Zoning Board of Adjustment pursuant to N.J.S.A. 40:55D-70(d)(1).

[b] Wireless Poles shall be of the same type (i.e., wooden, steel) as the existing utility poles located on either side of it and shall not be higher than one hundred fifteen percent (115%) of the average height of the existing utility poles within five hundred (500) feet, but in no event higher than sixty (60) feet in height, and no antenna or attachment shall extend more than six (6) feet above said utility pole. If there are no existing utility poles in the Public Right-of-Way within five hundred (500) feet of the proposed utility pole, the Carrier shall submit a plan for a proposed Stealth Structure for review and approval of the Borough Engineer.

[c] Wireless Poles are not permitted in areas with underground utilities. However, Applicant may seek relief from this requirement from the appropriate authorities.

[d] The height of the Wireless Pole, including the Small Cell Equipment Installation, cannot be any more than six feet higher than the height of the two nearest Existing Poles.

[e] The Proposed Wireless Pole shall be constructed, finished, painted and otherwise camouflaged, in conformance with best available stealth technology methods, so as to blend in compatibly with its background and so as minimize its visual impact on surrounding properties.

[f] No Wireless Pole may be spaced less than five hundred (500) linear feet from another Existing Pole or proposed Wireless Pole that is capable of supporting Small Cell Equipment. However, this requirement may be administratively waived for Wireless Poles that are proposed to be placed within Non-Residential Zones where the proposal is determined to be aesthetically consistent with the surrounding streetscape.

[g] Applicant must demonstrate that the Wireless Pole has received all necessary historic preservation reviews.

- [h] The Wireless Pole cannot exceed sixty (60) feet, or the maximum permitted height of the particular zone in which it is to be located, whichever is taller. However, Applicant may seek relief from this requirement from the Zoning Board of Adjustment.
- [i] The Wireless Pole cannot be placed in such a way that it encroaches upon or blocks sight triangles.
- [j] Applicant must demonstrate that the proposed small cell equipment cannot be collocated.

**(4) Application Process.**

- (a) Location: Small Cell Facilities that cannot be collocated are permitted in Borough rights-of-way, upon facilities in these rights-of-way and on public easements owned by the Borough under the following priority:
  - [1] First, on a Borough-owned utility pole, which shall be removed and replaced with a pole designed to contain all antennae and equipment within the pole to conceal any ground-based support equipment and ownership of which pole is conveyed to the Borough.
  - [2] Second, a Borough-owned utility pole with attachment of the small call facilities in a configuration approved by the Borough.
  - [3] Third, on a third-party owned utility pole, (with the consent of the owner thereof), with attachment of the small cell facilities in a configuration approved by the Borough.
  - [4] Fourth, on a traffic signal pole or mast arm in a configuration approved by the Borough, or in the case of a DOT facility, by DOT.
  - [5] Fifth, on a freestanding or ground-mounted facility which meets the definition of and requirements for an Alternative Tower Facility in a location and configuration approved by the Borough.
- (b) Application Process.
  - [1] Survey. Every Applicant must provide the Borough with a Professional Survey demonstrating that the area on which it proposes to place Small Cell Equipment and/or a Wireless Pole is located within the Public Right-of-Way. Applicant must also provide Easting and Northing coordinates in State Plane for inclusion in a GIS inventory.
  - [2] Small Cell Equipment. The Borough Engineer shall review all applications and make a recommendation to the Borough Council as to whether a supplemental license is in compliance with the terms of this Ordinance and the Master License Agreement and may therefore be issued.
  - [3] Wireless Poles. The Borough Engineer shall review all applications and make a recommendation to the Borough Council as to whether a supplemental license is in compliance with the terms of this Ordinance and the Master License Agreement and may therefore be issued.
  - [4] Any denial of a supplemental license must be in writing and provide the facts upon which such a denial is based.
- (c) An application for a license under this Section shall be accompanied by a payment of a Five Hundred (\$500.00) dollar fee, plus One Hundred (\$100.00) dollar additional fee for each additional Small Wireless Facility.
- (d) Pursuant to N.J.S.A. 54:30A-124, the Borough shall recover reasonable fees for actual services incurred in the review of all Applicants under this section.

Applicant shall make a Five Thousand (\$5,000.00) Dollar deposit toward Anticipated Municipal Expenses which shall be placed in an escrow account. If said escrow account contains insufficient funds to enable the Borough to perform its review, the Chief Financial Officer shall provide the Applicant a notice of insufficient balance. In order for review to continue, the Applicant shall, within thirty (30) days, post a deposit to the account in an amount to be mutually agreed upon.

- (e) An Applicant, upon receiving a supplemental license for the placement of Small Cell Equipment or a Wireless Pole in the Public Right-of-Way, may proceed in requesting all other necessary street opening permits and building permits and, upon receiving same, may proceed with construction. Applicants must comply with all other state and federal laws, rules and regulations along with any other applicable local ordinances.
- (f) There will be a Two Hundred Seventy (\$270.00) dollar per year Small Wireless Facility for all recurring fees including any Right-of-Way access fee or fee for attachment to municipally-owned structures in the Right-of-Way.

**(5) Assignment or Transfer of Small Cell Facility Licenses.**

- (a) Ownership or Ownership or control of a license issued pursuant to this Section may not, directly or indirectly, be transferred, assigned or disposed of by sale, lease, merger, consolidation or other act of the grantee, by operation of law or otherwise, without the prior consent of the Borough as expressed by Resolution.

**(6) General Indemnification of Borough in Connection with Telecommunications Facilities.**

- (a) Each license grantee shall indemnify and hold the Borough and its officers, employees, agents and representatives harmless from and against any and all damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the grantee or its affiliates, officers, employees, agents, contractors or subcontractors in the construction, operation, maintenance, repair or removal of its Telecommunications Facilities, and in providing or offering Telecommunications Services over the facilities, whether such acts or omissions are authorized, allowed or prohibited by this Chapter or by a grant agreement made or entered into pursuant to this Chapter.

**(7) Revocation or Termination of License.**

- (a) The Borough may revoke a license granted under this Chapter for the following reasons:
  - [1] Construction or operation without a license.
  - [2] Construction or operation at an unauthorized location.
  - [3] Unauthorized substantial transfer of control of the grantee.
  - [4] Unauthorized assignment of a license.
  - [5] Unauthorized sale, assignment or transfer of grantee's assets, or a substantial interest therein.
  - [6] Misrepresentation or lack of candor by or on behalf of a grantee in any application to the Borough.
  - [7] Abandonment of the Telecommunications Facility. A Telecommunications Facility shall be deemed "abandoned" if it is either

disconnected from power service or unused for greater than six (6) months. Abandoned Telecommunications Facilities shall be removed by the owner. Should the owner fail to remove the Telecommunications Facility, the Borough may do so at its option, and the costs thereof shall be a charge against the owner.

[8] Insolvency or bankruptcy of the grantee.

[9] Material violation of the Borough's Revised General Ordinances.

(b) In the event that the Borough believes that grounds exist for revocation of a license, it shall give the grantee written notice of the apparent violation or noncompliance, providing a statement of the nature and general facts of the violation or noncompliance, and providing the grantee a reasonable period of time not exceeding 30 days to furnish evidence:

[1] That corrective action has been, or is being actively and expeditiously pursued, to remedy the violation or noncompliance; and

[2] That rebuts the alleged violation or noncompliance; and

[3] That it would be in the public interest to impose some penalty or sanction less than revocation.

(c) The Borough shall consider the apparent violation or noncompliance in a public meeting, with respect to which the grantee shall be given notice and a reasonable opportunity to be heard concerning the matter.

**(8) Notification Required.**

(a) Any Telecommunications Carrier who desires to change existing use, construct, install, operate, maintain, or otherwise locate a Telecommunications Facility in the Borough shall provide notice to property owners certified by the Borough Administrator to be within two hundred (200') feet of the proposed Telecommunications Facility.

(b) Notice shall be given to a property owner by:

[1] serving a copy thereof on the property owner as shown on the current certified tax list, or his or her agent in charge of the property; or

[2] mailing a copy thereof by certified mail and regular mail to the property owner at the address as shown on the said current certified tax list, and service by mailing shall be deemed complete upon deposit with the U.S. Postal Service; and

(c) Notice pursuant this Section shall state the identity of the Telecommunications Carrier; a description of the Telecommunications Services that are or will be offered or provided; a description of the location(s) of any Telecommunications Facilities; and a description of the Telecommunications Facilities to be installed and the location of the Telecommunications Facilities. The notice shall also advise that a copy of the applicant's application is on file with the Borough Administrator and may be reviewed by the public.

(d) Such other and further information as may be required by the Borough Administrator.

(e) In the case of an application of an application that seeks to construct, install, operate, maintain, or otherwise locate a Telecommunications Facility or equipment on any property owned or controlled by the County — including, but not limited to, a County right-of-way — the applicant shall also provide notice to and obtain a permit from the County authorizing the placement of such Telecommunications Facility on any such property or right-of-way .

This section shall be in addition to and not in lieu of any notice provisions set forth in statute, rule or regulation.

**SECTION 2.** If any section or provision of this Ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**SECTION 3.** A copy of this Ordinance shall be forwarded, after introduction, to the Belmar Borough Planning Board for a Master Plan consistency review in accordance with N.J.S.A. 40:55D64.

**SECTION 4.** This Ordinance shall take effect upon (i) filing with the Monmouth County Planning Board in accordance with the Municipal Land Use Law; and (ii) adoption and publication in an official newspaper of the Borough, as required by and in conformance with law.

**ORDINANCE NO. 2020-03**

**ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE  
BOROUGH OF BELMAR, COUNTY OF MONMOUTH, STATE OF NEW  
JERSEY, AMENDING AND SUPPLEMENTING THE BOROUGH CODE  
TO AMEND ORDINANCE 2019-24 ENTITLED “BEACH FRONT AND  
MARINE REGULATIONS”, IN PARTICULAR SECTION 18-2.5 (FEES  
AND CHARGES)**

NOW, THEREFORE, **BE IT ORDAINED**, by the Mayor and Council of the Borough of Belmar, County of Monmouth, State of New Jersey as follows:

**SECTION I.** It has come to the attention of Belmar that an inadvertent error was made when adopting Ordinance 2019-24.

**SECTION II.** The language in Ordinance 2019-24 conflicts with Ordinance 2019-02, as it pertains to certain categories of persons be entitled to free beach badges.

**SECTION III.** As a result thereof Section 18-2.5 of the Borough Code entitled “Fees and Charges” is hereby modified as follows:

1. Section I, Paragraph 1 entitled “Persons 65 or more years of age” is hereby deleted in its entirety.

2. Other than as modified hereinabove, all other terms and conditions of the aforementioned Section of the Borough Code shall remain in full force and effect.

**SECTION IV.** If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

**SECTION V.** All ordinances or parts of ordinances inconsistent with or in conflict with the Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION VI.** This Ordinance shall take effect 20 days after final passage, adoption and publication according to law.

**ORDINANCE NO. 2020-04**

**ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE  
BOROUGH OF BELMAR, COUNTY OF MONMOUTH, STATE OF NEW  
JERSEY, VACATING ANY AND ALL INTEREST IT HAS IN AN  
EASEMENT AFFECTING BLOCK 137, LOT 1, BELMAR, NEW JERSEY**

**WHEREAS**, the Mayor and Council of the Borough of Belmar, County of Monmouth, State of New Jersey (hereinafter referred to as “Belmar”) has received a request from the owner of 1640 Highway 71, LLC (property owner), to vacate an easement over property owned by the property owner which is property known and designated as Block 137, Lot 1, Belmar New Jersey (the “property”); and

**WHEREAS**, the easement was provided to Belmar approximately 100 years ago and is a twenty (20) foot by one hundred (100) foot access easement on the furthest most southerly portion of the property which is not used or needed by Belmar; and

**WHEREAS**, the easement was provided to Belmar approximately 100 years ago in order to provide access to property then owned by Coast Gas Company; and

**WHEREAS**, in accordance with the provisions of N.J.S.A. 40A:12-13(b4), the easement can be released without harm or adverse consequences to Belmar and its residents, inasmuch as the easement area is no longer needed by, desirable or necessary for public purposes.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Borough of Belmar, County of Monmouth, State of New Jersey as follows:

**SECTION 1.** The aforementioned easement granted to the Borough, which easement is described in a Deed of Easement dated May 27, 1957 recorded in Deed Book 2761, at Page 159, in the Monmouth County Clerk’s Office be and hereby is vacated in favor of the current property owner, 1640 Highway 71, LLC.

**SECTION 2.** Belmar finds that the easement is no longer desirable, necessary, or required for public purposes, and therefore pursuant to the aforementioned statutory provision is hereby vacated and shall be considered in no further force of effect.

**SECTION 3.** The appropriate document will be recorded in the Monmouth County Clerk's Office in order to authorize the vacation of the aforementioned easement.

**SECTION 4.** If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

**SECTION 5.** All ordinances or parts of ordinances inconsistent with or in conflict with the Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 6.** This Ordinance shall take effect 20 days after final passage, adoption and publication according to law.

ALL OF WHICH IS ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2020,

\_\_\_\_\_  
MARK WALSIFER, Mayor

\_\_\_\_\_  
APRIL CLAUDIO, Borough Clerk

**ORDINANCE NO. 2020-05**

**AN ORDINANCE AMENDING AND SUPPLEMENTING  
CHAPTERS XI PERSONNEL, SECTION 11-10 PUBLIC OFFICE HOURS OF  
THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF BELMAR, IN  
THE COUNTY OF MONMOUTH, NEW JERSEY**

**WHEREAS**, the Borough of Belmar Mayor and Council wish to amend the ordinance section XI, Personnel as follows:

**SECTION I.** 11-10 PUBLIC OFFICE HOURS

All offices of the Borough shall be open between the hours of 9:00 a.m. and 4:30 p.m., five (5) days a week, except on Saturdays, Sundays and legal holidays. "Legal Holidays" shall be defined to include the day after Thanksgiving and any holiday set forth in N.J.S.A. 36:1-1 et seq. "Christmas Eve" offices shall close at 12:00 (noon) as set forth in adopted Union contracts. "General Election Day", "Veteran's Day", and "Lincoln's Birthday" shall not be a holiday and all offices shall be open during regular office hours. N.J.S.A. 36:1-1.2 shall be applicable to the Borough.

**SECTION II.** If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

**SECTION III.** All Ordinances or parts of ordinances inconsistent with or in conflict with the ordinance are hereby repealed to the extent of such inconsistency.

**SECTION IV.** This Ordinance shall take effect 20 days after final passage, adoption and publication according to law.

**ORDINANCE NO. 2020-06**

**ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF BELMAR, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 17-3.1 OF THE CODE OF THE BOROUGH OF BELMAR ENTITLED CLASSES OF LICENSES**

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and the Council of the Borough of Belmar, County of Monmouth, State of New Jersey, that certain changes must be made to the Borough Code.

**SECTION 1.** The Revised General Ordinances of the Borough of Belmar is hereby amended and supplemented so as to amend Chapter 17-3.1 is hereby amended as follows (~~stricken text~~ indicates deletions, underlined text indicates additions):

**17-3.1 Classes of Licenses.**

The classes of licenses, the fees for renewals of licenses (subject to subsection 17-3.2), and maximum number of licenses in each class permitted in the Borough shall be as follows:

Class	Annual Fee	Number
a. Plenary retail consumption	<del>\$2,000.00</del> <u>\$2,400.00</u>	8
b. Seasonal retail consumption	<del>\$1,500.00</del> <u>\$1,800.00</u>	3
c. Plenary retail consumption	<del>\$2,000.00</del> <u>\$2,400.00</u>	2
d. Club	<del>\$150.00</del> <u>\$188.00</u>	<del>23</del>
e. Limited Brewery License	\$0	1
f. Plenary Brewery License	\$0	1

**SECTION 2.** All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

**SECTION 3.** The Borough Council authorizes the Mayor, Borough Clerk and Borough Administrator to execute any and all necessary documents in order to implement the intent of this Ordinance.

**SECTION 4.** The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

**SECTION 5.** Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

**SECTION 6.** This Ordinance shall take effect upon publication in an official newspaper of the Borough, as required by and in conformance with law.