

**TOWN OF WEST NEW YORK
COUNTY OF HUDSON, STATE OF NEW JERSEY**

ORDINANCE #26/17

An Ordinance creating Chapter 415 Article I entitled “Fees for Applications to the Board of Commissioners of the Town of West New York for Consent to Utilize a Public Right-of-Way as Required Under N.J.S.A. 48:1-1 to 23-31.”

WHEREAS, the Town of West New York (“Town”) has been contacted by competitive local exchange and interchange telecommunications service providers authorized by the New Jersey Board of Public Utilities to provide such services throughout the State of New Jersey; and

WHEREAS, such competitive local exchange and interchange telecommunications service providers intend to submit applications to the Town seeking consent to install public utility fixtures, including but not limited to poles, conduits, wires, underground facilities, or other fixtures, in public rights-of-way as required under N.J.S.A. 48:1-1 to 23-31 (individually, the “Consent Application,” collectively, “Consent Applications”); and

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioner of the Town of West New York in the County of Hudson that Chapter 415 Article I be added as follows:

SECTION ONE

Fees. The following fees shall apply where a Consent Application is made to the Board of Commissioners of the Town, hereinafter referred to as the “Board,” seeking approval and consent install public utility fixtures, including but not limited to poles, conduits, wires, underground facilities, or other fixtures, in public rights-of-way as required under N.J.S.A. 48:1-1 to 23-31, (individually, the “Consent Application,” collectively, “Consent Applications”):

	Nonrefundable Application Fee (<i>per Consent Application</i>)	Escrow Deposit (<i>per Consent Application</i>)
If no new tower is proposed:	\$1,000.00	Plus \$2,000.00
If a new tower is proposed	\$5,000.00	Plus \$5,000.00

(the “Fee Schedule”); and

The following ordinances, as it relates to additional Fees and Escrows, shall apply to each Consent Application to the Board of Commissioners:

A. Fees for additional services:

In addition to fees for filing of Consent Applications, an applicant shall pay for the following services rendered by the Board and/or the administrative officials of the Town at the time of the request that the service be provided:

Service	Fee
Administrative officer, list of property owners	\$10.00
Transcript of meeting deposit (transcript at cost)	\$100.00
Copy of material (minutes, resolutions, etc., not transcript), per page	\$1.00
Publication of decision	\$25.00

B. Publication of decisions:

An applicant may cause to be published the decision of the Board and the public notice at his own expense but shall provide proof of such publication and payment of the fee to the Town Administrator.

C. Method of payment; receipt:

All fees and costs are to be paid by check or money order (no cash will be accepted by the Board or the Town Administrator) at the time of filing of the Consent Application. The Board or the Town Administrator, upon receipt of payment, shall furnish the applicant with an itemized receipt indicating amount of payment received and the services rendered.

D. Administrative officer:

The Tax Collector of the Town of West New York is hereby named and designated as the administrative officer of the Town of West New York for the purpose of making and/or certifying any and all lists of those property owners to be notified of any Consent Application pursuant to N.J.S.A. 48:17-10, if necessary.

E. List of property owners:

A fee of \$10.00 shall be charged and collected from the applicant for each such list, said fee to be deposited in the treasury of the Town of West New York.

F. Escrows:

Unless specifically waived by the Board, each applicant shall be required to deposit in escrow with the Town such reasonable sum as the Board may determine to reimburse the improvements, legal, and planning costs, recording fees and other reasonably anticipated costs necessary and customary for examination and evaluation of the Consent Application.

1. *Time for deposit.* Upon receipt of an application, the Town Administrator shall advise the applicant of the estimated amount of escrow deposit. The applicant shall, within two days, excluding Saturdays, Sundays and holidays, deposit such funds with the Town Treasurer. These funds will be placed in a Town escrow account, to be expended to reimburse the Board and/or the Town for professionals and consultants, recording fees, planning costs and all other related costs incurred by them on account of the reasonable

cost of the services and fees rendered with reference to the application. The Board may increase such deposit after preliminary consideration of the application where, in its judgment, the reasonable costs of review, evaluation and analysis will exceed the estimate.

2. *Return of escrow.* If there are any funds remaining in the escrow account for the Consent Application, a certification issued to the Town Treasurer by the Board shall indicate completion of the application procedure, and thereafter the remaining funds shall be returned to the applicant as soon as practical.
3. *Escrow required.* The Board shall take no formal action upon any application unless all application fees and escrow funds have been paid to the Town Treasurer, except those provided to be paid upon application for final approval, which shall be payable to the Town Treasurer at the time specified. No application shall be deemed complete until such time as all fees and escrows have been paid or deposited.
4. *Other fees.* Fees for Consent Applications to the Board that are not otherwise provided by ordinance may be provided for and adopted as part of the rules of the respective Board, and copies of said rules or of the separate fee schedule shall be available to the public.

SECTION TWO

A separate Consent Application must be submitted for each proposed location and/or address. An applicant shall not be permitted to submit a “blanket” application for more than one location and/or address

SECTION THREE

SEVERABILITY

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION FOUR

REPEALER

All ordinances or parts of ordinances in conflict herewith, are hereby repealed.

SECTION FIVE

CODIFICATION

It is the intention of the Mayor and Board of Commissioners of the Town of West New York, that the provisions of this Ordinance shall become and be made a part of the Town Code of Ordinances; and that

the sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word “ordinance” may be changed to “section”, “article”, or such other appropriate word or phrase in order to accomplish such intentions.

SECTION SIX

SEVERABILITY

This ordinance shall take effect upon passage and publication as required by law (according to local and state requirements).

SUMMARY OF ORDINANCE

This ordinance creates Chapter 415, Article I of the Code to set forth the fees for Consent Applications to the Board of Commissioners of the Town of West New York for consent to install public utility fixtures, including but not limited to poles, conduits, wires, underground facilities, or other fixtures, in public rights-of-way as required under N.J.S.A. 48:1-1 to 23-31.

Introduced: October 19, 2017

Notice

The foregoing Ordinance was adopted for first reading by the Mayor and Board of Commissioners of the Town of West New York, New Jersey, on **October 19, 2017** and ordered published, and will be further considered before final passage at a public hearing on **November 30, 2017 at 6:30 p.m.** at the Commission Chambers, Municipal Building, West New York, NJ. A copy of this Ordinance has been posted on the bulletin board upon which public notices are customarily posted on in the Town Hall of the Town of West New York, and a copy (at no charge) is available up to and including the time of such meeting to the members of the public of the Town who shall request such copies, at the Office of the Town Clerk in said Town Hall in West New York, N.J.

Carmela Riccio, RMC
Town Clerk