

TOWNSHIP OF VERONA  
COUNTY OF ESSEX, STATE OF NEW JERSEY

ORDINANCE No. 2022-18

**ESTABLISHING A NEW CHAPTER 395 "PUBLIC UTILITIES  
CONSTRUCTION AND POLE INSTALLATION AND REPLACEMENT"**

**BE IT ORDAINED**, by the Township Council of the Township of Verona, County of Essex, New Jersey as follows:

**SECTION 1.** There is hereby established a new Chapter 395 (Public Utilities) of the Code of the Township of Verona to read as follows:

**§ 395-1 Definitions.**

For the purposes of this section:

"Underground facility" means one or more underground pipes, cables, wires, lines or other structures used for the supplying and distribution of electricity for light, heat or power, or for the furnishing of telephone or other telecommunications service.

"Pole" means, in addition to its commonly accepted meaning, any wires or cable connected thereto, and any replacements which are similar in construction and use.

"Hot patch" means the installation of a mixture of asphalt to restore property within the right of way to its previous condition subsequent to the construction or excavation of a site required for the placement, replacement or removal of a pole of a utility pole or an underground facility pursuant to this section.

**§ 395-2 Placement, replacement or removal of public utility pole or underground facility; required notice, traffic control, restoration and pole removal.**

A. Before a public utility places, replaces or removes a pole or an underground facility located in the Township of Verona, the public utility shall notify the Zoning Officer and Township Engineer in writing, which may be by e-mail, personal service or certified mail, at least, but not less than, 24 hours before undertaking any excavation related to the placement, replacement or removal of the pole or underground facility.

B. Any public utility placing, replacing or removing a pole or an underground facility located in the Township shall provide for adequate traffic control during the course of said work, including any barricades, cones and/or officers necessary in order to safely divert the flow of traffic.

C. After completing the placement, replacement or removal of a pole or an underground facility pursuant to this ordinance, the public utility shall remove from such right of way any pole or underground facility no longer in use as well as any other debris created from such placement, replacement or removal and restore the property including, but not limited to, the installation of same material as removed as needed to restore the property within the right of way to its previous condition as much as possible. In the case of removal or replacement of a pole or an underground facility utilized by two or more public utilities, the public utility last removing its pipes, cables, wires, lines or other structures shall be liable for the removal and restoration required under this section.

**§ 395-3 Exceptions.**

Under emergency conditions which significantly impact the placement of a pole or underground facility resulting from natural forces or human activities beyond the control of the public utility, or which pose an imminent or existing threat of loss of electrical, power, telephone, or other telecommunication service, or which pose an imminent or existing threat to the safety and security of persons or property, or both, or which require immediate action by a public utility to prevent bodily harm or substantial property damage from occurring, the provisions of subsection § 395-2 A of this ordinance shall not apply when a public utility undertakes any construction or excavation related to the placement, replacement or removal of a pole or an underground facility in response to such an emergency, provided that the public utility undertaking such construction

or excavation notifies the Zoning Officer and Township Engineer at the earliest reasonable opportunity and that all reasonable efforts are taken by the public utility to comply with § 395-2B and § 395-2C. After the emergency is concluded, the provisions of § 395-2C and penalties contained in § 395-4 shall be applicable for failure to restore the property or any pole or underground facility no longer in use as well as any other debris created from such placement, replacement or removal and restore the property.

This Ordinance is not intended to replace or conflict with *N.J.S.A. 48:3, Art. 3e Infrastructure Projects, et. seq.*, and where those statutory provisions are applicable those provisions must also be followed.

**§ 395-4 Violations and penalties; notice of violation.**

A. In the event a public utility does not satisfy the debris removal and restoration requirements of § 395-2C above within 90 days of the date of such placement, replacement or removal of a utility pole or underground utility facility, the municipality shall be authorized to impose a fine up to an amount not to exceed \$100 each day until the requirements of § 395-2C are met, except that if the public utility is unable to complete the installation of a hot patch due to the unavailability of asphalt material during the period of time from November through April, the public utility shall not be required to complete the hot patch installation until 60 days immediately following the end of the November through April period.

B. Public utilities shall remove from such right of way any pole no longer in use, or sought to be replaced by the placement of a new pole, 90 days after the abandonment of the use of the pole or 90 days after placement of the new pole. Any poles currently not in use, or intended to be replaced based upon the placement of a new pole that has already been installed, must be removed within 90 days of the effective date of this ordinance. The municipality shall be authorized to impose a fine up to an amount not to exceed \$100 each day until the pole is removed and requirements of § 395-2C are met, except that if the public utility is unable to complete the installation of a hot patch due to the unavailability of asphalt material during the period of time from November through April, the public utility shall not be required to complete the hot patch installation until 60 days immediately following the end of the November through April period.

C. At least five business days prior to the end of the ninety-day or 60 days period established pursuant to § 395-4(A) as applicable, the Zoning Officer shall notify the public utility that the penalties authorized by such section shall begin to be assessed against the utility after the end of the applicable period unless the utility complies with the requirements of § 395-2(C) hereof.

**§ 395-5 Collection of penalties as summary enforcement action.**

Any penalties imposed in accordance with § 395-4 hereof shall be collected or enforced in a summary manner, without jury, in any court of competent jurisdiction, including, but not limited to, the Municipal Court of the Township of Verona in accordance with the procedures provided by the Penalty Enforcement Law (*N.J.S.A. 2A:58-1 et seq.*).

**SECTION 1: REPEAL OF INCONSISTENT PROVISIONS**

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

**SECTION 2: SEVERABILITY**

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**SECTION 3: EFFECTIVE DATE**

This Ordinance shall take effect immediately upon passage and publication as provided by law.

**SECTION 4: CODIFICATION**

This ordinance shall be a part of the Code of the Township of Verona as though codified and fully set forth therein. The Municipal Clerk shall have this ordinance codified and incorporated in the official copies of the Code. The Municipal Clerk and the Township Attorney are authorized and directed to change any Chapter, Article and/or Section number of the Code of the Township of Verona in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

**SECTION 5: NOTICE TO PUBLIC UTILITIES**

The Township Clerk shall cause any public utility that provides service in the Township to be notified of the provisions of this ordinance.



ATTEST:

*Jennifer Kiernan*  
JENNIFER KIERNAN  
MUNICIPAL CLERK

**I HEREBY CERTIFY THAT THE AFOREMENTIONED ORDINANCE WAS PUBLISHED IN THE STAR LEDGER, A NEWSPAPER PUBLISHED IN THE COUNTY OF ESSEX AND CIRCULATED IN THE TOWNSHIP OF VERONA, IN THE ISSUE OF JUNE 17, 2022 AND JULY 1, 2011**

**JENNIFER KIERNAN  
MUNICIPAL CLERK**

INTRODUCTION: June 13, 2022  
PUBLIC HEARING: June 27, 2022  
EFFECTIVE DATE: July 20, 2022