

TOWNSHIP OF LOWER ALLOWAYS CREEK

ORDINANCE 2013-05

**AN ORDINANCE AMENDING CHAPTER 138 KNOWN AS “STREETS AND SIDEWALKS”;
ESTABLISHING PROCEDURES REGARDING THE PLACEMENT, REPLACEMENT OR
REMOVAL OF PUBLIC UTILITY POLES OR UNDERGROUND FACILITIES PURSUANT TO
THE AUTHORITY PROVIDED IN N.J.S.A. 48:3-17a**

Be it ordained by the Township Committee of the Township of Lower Alloways Creek, as follows:

Section 1. The Lower Alloways Creek Township Code Chapter 138 known as “Streets & Sidewalks”, is hereby amended by to include the following Article VI:

**ARTICLE VI
PUBLIC UTILITY POLES AND UNDERGROUND FACILITIES**

§138 – 21 Notification required

Before a public utility places, replaces or removes a pole or an underground facility located in the Township of Lower Alloways Creek, the public utility shall notify both the municipal Engineer and the Municipal Code Official in writing, which may be by Fax or e-Mail, at least, but not less than 24 hours before undertaking any excavation related to the replacement or removal of the utility pole or underground facility, which pole or underground facility is used for the supplying and distribution of electricity for light, heat or power, or for the furnishing of water service or telephone or other telecommunications service on or below a public right of way in the Township. The Township Committee of the Township of Lower Alloways Creek shall notify any public utility that provides service in the Township of the application of the provisions of this ordinance.

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§138-22 Restoration of property

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 a hot patch as needed to restore the property within the right of way to its previous condition as much as possible.

§138-23 Definitions

- a. For the purposes of this section, "pole" means, in addition to its commonly accepted meaning, any wires or cable connected thereto, and any replacements therefor which are similar in construction and use.
- b. 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 providing of water service, or for the furnishing of telephone or other telecommunications service.

c. As used in this section, "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 of a pole or an underground facility pursuant to this section.

§138-24 Penalties

In the event a public utility does not meet the requirements of subsection 138-22 of this section concerning the removal of debris and the restoring of property including, but not limited to, the installation of a hot patch, within a right of way to its previous condition within 90 days of placement, replacement or removal of a pole or an underground facility, said public utility will be fined up to an amount not to exceed \$100 each day until the requirements of subsection 138-22 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. At least five business days prior to the end of the 90-day period established by this subsection, the municipality shall notify the public utility that the penalties authorized by this subsection shall begin to be assessed against the utility after the end of the 90-day period unless the utility complies with the requirements of subsection 138-22 of this section. Any penalty imposed shall be collected or enforced in a summary manner, without a jury, in any court of competent jurisdiction according to the procedure provided by "The Penalty Enforcement Law of 1999," N.J.S.A. 2A:58-10 et seq.). The Superior Court and municipal court shall have jurisdiction to enforce the provisions of this section. 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 subsection 138-22 of this section, unless a written agreement between the public utilities provides otherwise.

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§138-25 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, water, 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 138-21 of this section 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 Municipal Engineer and the Municipal Code Official of Lower Alloways Creek at the earliest reasonable opportunity and that all reasonable efforts are taken by the public utility to comply with the removal and restoration requirements of subsection 138-22 of this section after responding to the emergency.

Section 2. This ordinance shall take effect as provided by the law.

Public Hearing on this Ordinance shall be on April 16, 2013 at 7:30 p.m., at the Municipal Building, 501 Locust Island Road, Hancock's Bridge, New Jersey.

This Ordinance which was introduced for First Reading on March 19, 2013 shall be published by Title in the Today's Sunbeam and placed on the Township's Bulletin Board giving notice of said Public Hearing as required by Law.

Introduction: March 19, 2013

COMMITTEE MEMBER	MOVE	SECOND	YES	NO	ABSTAIN	ABSENT
MR. BRADWAY		S	Y			
MR. PALOMBO			Y			
MRS. POMPPER			Y			
MR. VENABLE	M		Y			
MAYOR BRESLIN			Y			

Final: April 16, 2013

COMMITTEE MEMBER	MOVE	SECOND	YES	NO	ABSTAIN	ABSENT
MR. BRADWAY						
MR. PALOMBO						
MRS. POMPPER						
MR. VENABLE						
MAYOR BRESLIN						

Attest

Lower Alloways Creek

Ronald L Campbell Sr., Clerk

By: _____
Mayor, Robert F. Breslin III