

BOROUGH OF LONGPORT
COMMISSION MEETING
AUGUST 6, 2014
4:30 pm

PURSUANT TO THE OPEN PUBLIC MEETINGS ACT, ADEQUATE NOTICE OF THIS MEETING HAS BEEN PROVIDED IN ACCORDANCE WITH THE LAW.

AGENDA

1. *Flag Salute- Meeting called to order*
2. *Open Public Meeting Announcement-Fire Exits-Public Speaking time limit*
3. *Approval of minutes for the 7/23/14 Commission meeting*
4. *2ND READING/PUBLIC COMMENT*
ORDINANCE O2014-08 COMCAST RENEWAL
5. *1ST READING/INTRODUCTION (2ND READING SCHEDULED FOR 8/20/14)*
O2014-10 AMENDING CHAPTER 167-ZONING AS IT PERTAINS TO FIREPLACES AND FIRE PITS OF THE CODE OF THE BOROUGH OF LONGPORT(Fences, Walls, Bulkheads, and Sight Triangles)
O2014-11 AMENDING CHAPTER 167 AS IT PERTAINS TO FIREPLACES AND FIRE PITS OF THE CODE OF THE BOROUGH OF LONGPORT (Swimming Pools)
6. *Public Comment/Questions on Resolutions listed on this agenda (3 minutes/person)*
7. *Resolutions*
 - ✓ *R2014-91 Drive Sober or Get Pulled Over DWI Enforcement*
8. *Bill Pay List*
9. *Commissioners' Reports*
10. *Public Comment*
11. *Adjournment*

Posted: 8-5-14

Revised:

Borough of Longport
ORDINANCE #2014-08

AN ORDINANCE GRANTING RENEWAL OF MUNICIPAL CONSENT TO COMCAST OF SOUTH JERSEY, LLC TO CONSTRUCT, CONNECT, OPERATE AND MAINTAIN A CABLE TELEVISION AND COMMUNICATIONS SYSTEM IN THE BOROUGH OF LONGPORT, NEW JERSEY.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF LONGPORT, COUNTY OF ATLANTIC, NEW JERSEY, AS FOLLOWS:

SECTION 1. PURPOSE OF THE ORDINANCE

The municipality hereby grants to Comcast renewal of its non-exclusive Municipal Consent to place in, upon, across, above, over and under highways, streets, alleys, sidewalks, easements, public ways and public places in the municipality, poles, wires, cables, underground conduits, manholes and other television conductors, fixtures, apparatus and equipment as may be necessary for the construction, operation and maintenance in the Municipality of a cable television and communications system.

SECTION 2. DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. Such meaning or definition of terms is supplemental to those definitions of the Federal Communications Commission ("FCC") rules and regulations, 47 C.F.R. Subsection 76.1 et seq., and the Cable Communications Policy Act, 47 U.S.C. Section 521 et seq., as amended, and the Cable Television Act, N.J.S.A. 48:5A-1 et seq., and shall in no way be construed to broaden, alter or conflict with the federal and state definitions:

- a. "Borough" or "Municipality" is the Borough of Longport, County of Atlantic, State of New Jersey.
- b. "Company" is the grantee of rights under this Ordinance and is known as Comcast of South Jersey, LLC
- c. "Act" or "Cable Television Act" is Chapter 186 of the General Laws of New Jersey, and subsequent amendments thereto, N.J.S.A. 48:5A-1, et seq.
- d. "FCC" is the Federal Communications Commission.
- e. "Board" or "BPU" is the Board of Public Utilities, State of New Jersey.
- f. "Office" or "OCTV" is the Office of Cable Television of the Board.
- g. "Basic Cable Service" means any service tier, which includes the retransmission of local television broadcast signals as defined by the FCC.
- h. "Application" is the Company's Application for Renewal of Municipal Consent.
- i. "Primary Service Area" or "PSA" consists of the area of the Municipality currently served with existing plant as set forth in the map annexed to the Company's Application for Municipal Consent.

SECTION 3. STATEMENT OF FINDINGS

Public hearings conducted by the municipality, concerning the renewal of Municipal Consent herein granted to the Company were held after proper public notice pursuant to the terms and conditions of the Act and the regulations of the Board adopted

pursuant thereto. Said hearings, having been fully open to the public, and the municipality, having received at said public hearings all comments regarding the qualifications of the Company to receive this renewal of Municipal Consent, the Municipality hereby finds that the Company possesses the necessary legal, technical, character, financial and other qualifications and that the Company's operating and construction arrangements are adequate and feasible.

SECTION 4. DURATION OF FRANCHISE

The non-exclusive Municipal Consent granted herein shall expire 15 years from the date of expiration of the previous Certificate of Approval issued by the Board with a 10-year automatic renewal as provided by N.J.S.A. 48:5A-19 and 25, and N.J.A.C. 14:18-13.6.

In the event that the Municipality shall find that the Company has not substantially complied with the material terms and conditions of this Ordinance, the Municipality shall have the right to petition the OCTV, pursuant to N.J.S.A. 48:5A-47, for appropriate action, including modification and/or termination of the Certificate of Approval; provided however, that the Municipality shall first have given the Company written notice of all alleged instances of non-compliance and an opportunity to cure same within ninety (90) days of that notification.

SECTION 5. FRANCHISE FEE

Pursuant to the terms and conditions of the Act, the Company shall, during each year of operation under the consent granted herein, pay to the Municipality two percent (2%) of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for cable television reception service in the Municipality or any higher amount permitted by the Act or otherwise allowable by law, whichever is greater.

SECTION 6. FRANCHISE TERRITORY

The consent granted under this Ordinance to the renewal of the franchise shall apply to the entirety of the Municipality and any property subsequently annexed hereto.

SECTION 7. EXTENSION OF SERVICE

The Company shall be required to proffer service to any residence or business along any public right-of-way in the Primary Service Area, as set forth in the Company's Application. Any extension of plant beyond the Primary Service Area shall be governed by the Company's Line Extension Policy, as set forth in the Company's Application.

SECTION 8. CONSTRUCTION REQUIREMENTS

Restoration: In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways, or other surface in the natural topography, the Company shall, at its sole expense, restore and replace such places or things so disturbed in as good a condition as existed prior to the commencement of said work.

Relocation: If at any time during the period of this consent, the Municipality shall alter or change the grade of any street, alley or other way or place the Company, upon reasonable notice by the Municipality, shall remove, re-lay or relocate its equipment, at the expense of the Company.

Removal or Trimming of Trees: During the exercise of its rights and privileges under this franchise, the Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks or other public places of the municipality so as to prevent the branches of such trees from coming in contact with the wires and cable of the Company. Such trimming shall be only to the extent necessary to maintain proper clearance of the Company's facilities, and in accordance with the Borough Code.”

SECTION 9. CUSTOMER SERVICE

In providing services to its customers, the Company shall comply with N.J.A.C. 14:18-1, et seq. and all applicable state and federal statutes and regulations. The Company shall strive to meet or exceed all voluntary company and industry standards in the delivery of customer service and shall be prepared to report on it to the municipality upon written request of the Municipality Administrator or Clerk.

- a. The Company shall continue to comply fully with all applicable state and federal statutes and regulations regarding credit for outages, the reporting of same to regulatory agencies and notification of same to customers.
- b. The Company shall continue to fully comply with all applicable state and federal statutes and regulations regarding the availability of devices for the hearing impaired and the notification of same to customers.
- c. The Company shall use every reasonable effort to meet or exceed voluntary standards for telephone accessibility developed by the National Cable Television Association (NCTA).
- d. Nothing herein shall impair the right of any subscriber or the Municipality to express any comment with respect to telephone accessibility to the Complaint Officer, or impair the right of the Complaint Officer to take any action that is permitted under law.

SECTION 10. MUNICIPAL COMPLAINT OFFICER

The Office of Cable Television is hereby designated as the Complaint Officer for the Municipality pursuant to N.J.S.A. 48:5A-26(b). All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5. The Municipality shall have the right to request copies of records and reports pertaining to complaints by Municipality customers from the OCTV.

SECTION 11. LOCAL OFFICE

During the term of this franchise, and any renewal thereof, the Company shall maintain a business office or agent in accordance with N.J.A.C. 14:18-5.1 for the purpose of receiving, investigating and resolving all local complaints regarding the quality of service, equipment malfunctions, and similar matters. Such a business office shall have a publicly listed toll-free telephone number and be open during standard business hours.

SECTION 12. PERFORMANCE BONDS

During the life of the franchise the Company shall give to the municipality a bond in the amount of twenty-five thousand (\$25,000.00) dollars. Such bond shall be to insure the faithful performance of all undertakings of the Company as represented in its application for municipal consent incorporated herein.

SECTION 13. SUBSCRIBER RATES

The rates of the Company shall be subject to regulation as permitted by federal and state law.

SECTION 14. COMMITMENTS BY THE COMPANY

- a. The Company shall provide Expanded Basic or a similar tier of cable television service at no cost on one (1) outlet to each qualified existing and future Borough Hall, police, fire, emergency management facility and public library in the Municipality, provided the facility is located within 175 feet of active cable distribution plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the Municipality.
- b. The Communications Act of 1934, as amended [47 U.S.C. §543 (b)], allows the Company to itemize and/or identify: (1.) the amount on the subscriber bill assessed as a franchise fee and the identity of the governmental authority to which the fee is paid; (2.) the amount on the bill assessed to satisfy any requirements imposed on the Company by the cable franchise to support public, educational, and/or governmental access channels or the use of such channels; and (3.) any grants or other fees on the bill or any tax, assessment, or charge of any kind imposed by any governmental authority on the transaction between the operator and the subscriber. The Company reserves these external cost, pass-through rights to the extent permitted by law.
- c. Within six months of the issuance of a Renewal Certificate of Approval the Company shall provide to the Municipality a one-time Technology Grant in the amount of twelve thousand five-hundred dollars (\$12,500) to help meet the technology and/or cable related needs of the community.

SECTION 15. EMERGENCY USES

The Company will comply with the Emergency Alert System (“EAS”) rules in accordance with applicable state and federal statutes and regulations.

The Company shall in no way be held liable for any injury suffered by the municipality or any other person, during an emergency, if for any reason the municipality is unable to make full use of the cable television system as contemplated herein.

SECTION 16. LIABILITY INSURANCE

The Company shall at all times maintain a comprehensive general liability insurance policy with a single limit amount of \$1,000,000 covering liability for any death, personal injury, property damages or other liability arising out of its construction and operation of the cable television system, and an excess liability (or "umbrella") policy in the amount of \$5,000,000.

SECTION 17. INCORPORATION OF THE APPLICATION

All of the statements and commitments contained in the Application or annexed thereto and incorporated therein, and any amendment thereto, except as modified herein, are binding upon the Company as terms and conditions of this consent. The Application and other relevant writings submitted by the Company shall be annexed hereto and made a part hereof by reference provided same do not conflict with applicable State or Federal law.

SECTION 18. COMPETITIVE EQUITY

Should the Municipality grant a franchise to construct, operate and maintain a cable television system to any other person, corporation or entity on terms materially less burdensome or more favorable than the terms contained herein, the Company may substitute such language that is more favorable or less burdensome for the comparable provision of this Ordinance subject to the provisions of N.J.A.C. 14:17-6.7.

SECTION 19. SEPARABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or federal or state agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and its validity or unconstitutionality shall not affect the validity of the remaining portions of the Ordinance.

SECTION 20. THIRD PARTY BENEFICIARIES

Nothing in this Franchise or in any prior agreement is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of such agreements or Franchise.

SECTION 21. EFFECTIVE DATE

This Ordinance shall take effect immediately upon issuance of a Renewal Certificate of Approval from the BPU.

RECORD OF GOVERNING BODY VOTE ON INTRODUCTION (7-9-14)						
COMMISSION	AYE	NAY	N.V	A.B.	MOT.	SEC.
RUSSO	XX				XX	
LEEDS	XX					XX
LAWLER				XX		

X X-Indicates Vote NV-Not Voting AB-Absent MOT-Motion SEC-Second

RECORD OF GOVERNING BODY VOTE ON FINAL PASSAGE (7-23-14 TABLED)						
COMMISSION	AYE	NAY	N.V	A.B.	MOT.	SEC.
RUSSO	X				X	
LEEDS	X					X
LAWLER	X					

X-Indicates Vote NV-Not Voting AB-Absent MOT-Motion SEC-Second

This is a Certified True copy of the Original Ordinance on file in the Municipal Clerk’s Office.

RECORD OF GOVERNING BODY VOTE ON FINAL PASSAGE (8-6-14)						
COMMISSION	AYE	NAY	N.V	A.B.	MOT.	SEC.
RUSSO						
LEEDS						
LAWLER						

X-Indicates Vote NV-Not Voting AB-Absent MOT-Motion SEC-Second

This is a Certified True copy of the Original Ordinance on file in the Municipal Clerk’s Office.

/s/ EMILIA R. STRAWDER, RMC
MUNICIPAL CLERK

ORDINANCE 2014-10

AN ORDINANCE AMENDING CHAPTER 167 - ZONING
AS IT PERTAINS TO FIREPLACES AND FIRE PITS
OF THE CODE OF THE BOROUGH OF LONGPORT
ATLANTIC COUNTY NEW JERSEY

BE IT ORDAINED BY THE COMMISSIONERS OF THE BOROUGH OF LONGPORT that:

SECTION I: Subchapter 167-20. Fences, Walls, Bulkheads, and Sight Triangles. of Chapter 167 of the Code of the Borough of Longport is changed to read **167-20 Fences, Walls, Bulkheads, Sight Triangles, and Fireplaces/Fire Pits;** and

SECTION II. The following subparagraph is added to **Subchapter 167-20:**

F. Fireplaces and Firepits.

- (1) All outside wood burning fireplaces shall be placed within the rear yard of the property; be attached only to a Principal Structure meeting the District Requirements for a rear yard setback; and not protrude from the compliant Principal Structure more than three feet into the rear yard setback. The fireplace shall not be wider than eight feet. All other outdoor fireplaces shall only be natural or propane gas fired and shall be placed within the setbacks and meet the maximum height requirements for accessory structures. Such non-attached natural or propane gas fired fireplaces shall count as impervious accessory building square footage.
- (2) Firepits shall only be natural or propane gas fired; be constructed not more than three (3) feet in height from the ground (patio) or first floor deck elevation; and only placed within the permitted setback requirements for first floor decks and patios. If constructed independent of a deck or patio, the unit must meet the setbacks for a deck and the area or the firepit shall count as accessory building coverage. Firepits on wood decks must have minimum ½" cement board beneath.
- (3) Portable metal firepits and chimineas not exceeding an area of 30" by 30" and 36" in height may be wood burning in accordance with appropriate fire regulations and may be placed not closer than 3 feet to any property line.

SECTION III: All other Ordinances or parts of Ordinances which are inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies, are hereby repealed. Should any section, subsection, clause, or portion of this Ordinance be adjudged by a Court of competent jurisdiction as invalid, such judgement shall not affect, impair, or invalidate the remainder of this Ordinance.

SECTION IV: This Ordinance shall take effect immediately upon passage and publication as required by Law.

First Reading:
Publication:
Final Reading:

Emilia R. Strawder, RMC CMR
Municipal Clerk

Mayor Nicholas Russo, EdD

Commissioner Daniel Lawler

Commissioner James P. Leeds, Sr.

ORDINANCE 2014-11

AN ORDINANCE AMENDING CHAPTER 167 - ZONING
AS IT PERTAINS TO FIREPLACES AND FIRE PITS
OF THE CODE OF THE BOROUGH OF LONGPORT
ATLANTIC COUNTY NEW JERSEY

BE IT ORDAINED BY THE COMMISSIONERS OF THE BOROUGH OF LONGPORT that:

SECTION I: Subchapter 167-26. **Swimming Pools.** in Chapter 167 of the Code of the Borough of Longport is changed to read **167-26 Swimming Pools, Hot Tubs, and Spas** and

SECTION II. The entire Subchapter is deleted and replaced with the following:

Subchapter 167-26 Swimming Pools, Hot Tubs, and Spas.

In addition to complying with other applicable regulations contained in this Chapter and all other applicable Longport Ordinances, swimming pools, hot tubs, and spas, with the exception of movable wading pools having less than 150 square feet of water area and being 24 inches or less in water depth, may be established only in accordance with the following standards and requirements and only as an accessory use to an existing and established residential, multifamily, hotel, or motel use on the same property.

- A. **Fencing.** All in-ground and above ground swimming pools, hot tubs, and spas shall have a minimum four foot high fence such that they are fully enclosed. The height of the fence shall be measured from the existing ground elevation. All gates shall be lockable and self closing. Fencing shall be of a type that is non-scalable and with no footholds. The fencing shall be placed at least three feet from the waters edge. No certificate of occupancy shall be issued by the Construction Code Official until all fencing is erected and complete.
- B. **Lighting.** All pool/hot tub/ spa lighting shall be contained within the structure and below the water line. Area lighting shall be in conformance with Chapter 167-23. No floodlights are permitted.
- C. **Flood Plane-** All pool equipment shall be on a foundation not less than the Design Flood Elevation as established by Chapter 99 and meet the required setbacks as established under Chapter 167-11 C.
- D. **Setbacks.** All swimming pools, hot tubs, or spas, whether above ground or not, shall be setback at least five (5) feet from any side or rear property line and at least three feet from any structure. Setbacks shall be measured from either the face of the structure or property line to the vertical edge of the water. For lots fronting the Ocean or Risleys Channel, there shall be a minimum setback from the interior line of the bulkhead or seawall of at least three feet. All pools, hot tubs, or spas shall be setback at least ten (10) feet from any front yard property line.

SECTION III: All other Ordinances or parts of Ordinances which are inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies, are hereby repealed. Should any section, subsection, clause, or portion of this Ordinance be adjudged by a Court of competent jurisdiction as invalid, such judgment shall not affect, impair, or invalidate the remainder of this Ordinance.

SECTION IV: This Ordinance shall take effect immediately upon passage and publication as required by Law.

First Reading:
Publication:
Final Reading:

Emilia R. Strawder, RMC CMR
Municipal Clerk

Mayor Nicholas Russo, EdD

Commissioner Daniel Lawler

Commissioner James P. Leeds, Sr.

BOROUGH OF LONGPORT

Resolution 2014-91

Supporting the Drive Sober or Get Pulled Over 2014 Statewide Crackdown

Whereas, impaired drivers on our nation’s roads kill someone every 30 minutes, 50 people per day, and almost 18,000 people each year; and

Whereas, 19% of motor vehicle fatalities in New Jersey in 2012 were alcohol-related; and

Whereas, an enforcement crackdown is planned to combat impaired driving; and

Whereas, the summer season and the Labor Day holiday in particular are traditionally times of social gatherings which include alcohol; and

Whereas, the state of New Jersey , division of Highway Traffic Safety, has asked law enforcement agencies throughout the state to participate in the *Drive Sober or Get Pulled Over 2014 Statewide Crackdown*; and

Whereas, the project will involve increased impaired driving enforcement from August 15 through September 1, 2014; and

Whereas, an increase in impaired driving enforcement and a reduction in impaired driving will save lives on our roadways;

Therefore, be it resolved that the Governing Body of The Borough of Longport declares its support for the *Drive Sober or Get Pulled Over 2014 Statewide Crackdown* from August 15 through September 1, 2014 and pledges to increase awareness of the dangers of drinking and driving.

RECORD OF GOVERNING BODY VOTE ON FINAL PASSAGE						
COMMISSION	AYE	NAY	N.V	A.B.	MOT.	SEC.
RUSSO						
LEEDS						
LAWLER						
X-Indicates Vote NV-Not Voting AB-Absent MOT-Motion SEC-Second						

This is a Certified True copy of the Original Resolution on file in the Municipal Clerk’s Office.

DATE OF ADOPTION: 8-6-2014

/s/ EMILIA R. STRAWDER, RMC