

ORDINANCE NO. 525

An Ordinance to amend Zoning Code §230.38 to require newly installed telephone, electric and transmission lines to be placed below ground.

(Amended language underlined)

WHEREAS, City Council deems it appropriate to require all future telephone, electric and transmission lines in all Residential Zoning Districts (Historic, R-1, R-2 and R-3), the Agricultural-Horticultural District, the Downtown Gateway District and the Historic Commercial District be placed below ground; and

WHEREAS, City Council further deems it appropriate to require all aerial wireline facilities of any type, with necessary accompanying and incidental equipment for local distribution be permitted only by means of a special exception granted by the Board of Adjustment in the following districts: Service Commercial (SC); General Commercial (GC); Industrial (I); Light Industrial-Office (LIO); Industrial Office Park (IOP).

NOW, THEREFORE, be it ordained by the Council of the City of New Castle, as follows:

SECTION 1: Section 230.38 of the Zoning Code is hereby amended so that such subsection shall read, in its entirety, as follows:

Chapter 230 – Zoning. Section § 230-38 – Public utilities.

Public utility rights-of-way and structures may be permitted as follows:

- A. Telephone, electric, water, sewer, and gas lines, with necessary accompanying and incidental equipment for local distribution, are permitted as a matter of right in any district.
- B. Hydroelectric lines; dams; power plants; transmission line; substations; pumping and boosting stations; pipelines; telecommunications facilities; administrative, construction, maintenance and storage facilities; and water and sewage treatment facilities may be permitted as a special exception in any district; provided, however, that all facilities must be owned by an entity which is a public utility as defined in 26 Del. C. S101 (2) or is owned or operated by state or local government or an agency thereof. All other pipelines transporting explosive, toxic or flammable hazardous materials are banned from the City limits of New Castle.
- C. Telecommunications facilities may be permitted pursuant to this section as a special exception in any district except in all Residential (Historic, R-1, R-2 and R-3) and Historic Commercial Districts. All applications for telecommunications facilities are subject to the approval of the Board of Adjustment. In considering such applications, the standards set out in §230-25.1 of the Zoning Code shall be considered minimum standards.
- D. All permitted telephone, electric, and transmission lines, with necessary accompanying and incidental equipment for local distribution, shall be below ground.

E. Aerial wireline facilities of any type, with necessary accompanying and incidental equipment for local distribution, may be permitted pursuant to this section as a special exception granted by the Board of Adjustment in only the following districts: Service Commercial (SC); General Commercial (GC); Industrial (I); Light Industrial-Office (LIO); Industrial Office Park (IOP). All applications for aerial wireline facilities are subject to the approval of the Board of Adjustment. In considering such applications, the standards set out in §230-25.1 of the Zoning Code shall be considered minimum standards.

SECTION 2: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3. In the event any existing Ordinances or parts of Ordinances are in conflict herewith, the provisions of this Ordinance shall control.

SECTION 4. This Ordinance shall become effective immediately upon passage.

First Reading: January 14, 2020

Second Reading: _____, 2020

Signed this _____ day of _____, 2020

Linda Ratchford, President of Council

I hereby certify that the foregoing Ordinance was duly approved by the Council of the Mayor and Council of New Castle upon the dates above set forth and signed by the President of Council.

Brian G. Whitaker, City Clerk

Approved this _____ day of _____, 2020

Michael J. Quaranta, Mayor