

**BOROUGH OF PENNINGTON  
ORDINANCE NO. 2015-12**

**AN ORDINANCE AUTHORIZING RIGHT OF WAY USE  
AGREEMENT BETWEEN THE BOROUGH OF PENNINGTON  
AND FIBERTECH TECHNOLOGIES NETWORKS, LLC**

**WHEREAS**, Fiber Technologies Networks, L.L.C. (“Fibertech”), a New York limited liability company, with offices located at 300 Meridian Centre, Rochester, New York, is authorized to provide local exchange and interexchange telecommunications services throughout the State of New Jersey pursuant to an Order issued by the New Jersey Board of Public Utilities (“NJBPU”) in Docket No. TE05080683 dated September 14, 2005; and

**WHEREAS**, Fibertech has requested the consent of the Borough of Pennington to occupy public rights-of-way within the Borough for an initial term of ten (10) years with automatic renewals for up to three additional terms of ten (10) years unless either party provides written notice of intent not to renew at least twelve (12) months prior to expiration;

**WHEREAS**, it is deemed by Borough Council to be in the interest of the Borough and its residents for the Borough to grant municipal consent to Fibertech to occupy the public rights-of-way within the Borough for this purpose;

**WHEREAS**, the granting of such consent is and shall be conditioned upon Fibertech’s continued compliance with all existing laws, rules, statutes, regulations and ordinances of the Borough, as may be amended from time to time; and

**WHEREAS**, the granting of such consent is and shall be conditioned upon Fibertech entering into a written Rights-of-Way Use Agreement with the Borough substantially in the form annexed to this Ordinance, which, *inter alia*, requires Fibertech to indemnify, defend and hold harmless the Borough from and against any and all claims, liabilities, litigation and related costs which may arise in connection with Fibertech activities pursuant to the rights granted in the Agreement;

**NOW, THEREFORE, BE IT ORDAINED**, by the Borough Council of the Borough of Pennington:

1. that non-exclusive consent is hereby granted to Fibertech to occupy the public rights-of-way within the Borough for the purpose of owning, constructing, installing, operating and maintaining a telecommunications system pursuant to the Rights-of-Way Use Agreement annexed hereto;
2. that such consent is conditioned upon Fibertech entering into the attached Agreement and complying with its terms;
3. that the Mayor, with the attestation of the Clerk, is authorized to execute the attached Agreement on behalf of the Borough;
4. that this Ordinance shall be effective upon its passage and publication as provided by law.

Introduced:	<u>September 8, 2015</u>
Advertised:	<u>September 17, 2015</u>
Public Hearing:	<u>October 5, 2015</u>
Adopted:	<u>October 5, 2015</u>
Published:	<u>October 8, 2015</u>

ATTEST:

APPROVED:

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Elizabeth Sterling, Borough Clerk

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Anthony Persichilli, Mayor