

**ORDINANCE NO. 14-22            AN ORDINANCE AUTHORIZING THE LEASE OF A PORTION OF CERTAIN PROPERTY OWNED BY THE BOROUGH AND NOT REQUIRED FOR PUBLIC PURPOSES TO THE COUNTY OF MORRIS FOR THE CONSTRUCTION AND INSTALLATION OF A 100' HIGH WIRELESS COMMUNICATIONS MONOPOLE AND RELATED APPURTENANCES, AND THE OPERATION AND MAINTENANCE OF SAME**

**WHEREAS**, pursuant to N.J.S.A. 40A:12-14(b), any municipality may lease to a public body any real property, capital improvement or personal property not needed for public use as set forth in the ordinance authorizing the lease, other than municipal real property otherwise dedicated or restricted pursuant to law, and except as otherwise provided by law, and in the case of a lease to a public body, the lease may be upon such terms and conditions for nominal or other consideration as the governing body of the municipality shall approve by ordinance ; and

**WHEREAS**, the Borough of Kinnelon (the “Borough”) is the owner of certain real property and improvements thereon located with the Borough of Kinnelon, County of Morris, State of New Jersey, designated as Block 57401, Lot 147 on the Official Tax Map of the Borough of Kinnelon (“Property”), commonly known as 68 Denise Drive, Kinnelon, New Jersey and

**WHEREAS**, the Borough maintains a thirty (30’) foot wide access easement through and over property designated as Block 57401, Lot 146 on the Official Tax Map of the Borough of Kinnelon (“Access Easement Property”), commonly known as 66 Denise Drive, Kinnelon, New Jersey; and

**WHEREAS**, the County of Morris (“County”) currently has communication and related equipment attached to the existing water tank on the Property and further has an equipment cabinet,

generator, and other appurtenances on the property in the vicinity of the water tank related to the installed communication equipment; and

**WHEREAS**, the Borough desires to lease to the County a dedicated area dimensioned at approximately 30' by 30' for the installation of a 100' high wireless communications monopole, together with the additional property necessary to utilize, upgrade, expand, maintain, operate, repair and replace the existing equipment cabinet, generator and other appurtenances located outside of the dedicated area (collectively the "Leased Premises"); and

**WHEREAS**, the Borough desires to provide, via the Access Easement Property, adequate ingress and egress thereto and therefrom the Property and the Leased Premises for the installation, operation, repair, replacement, upgrade and maintenance of the 100' high monopole and related appurtenances, to be used by the County and the Borough; and

**WHEREAS**, the afore-referenced Leased Premises on Property is not needed for public use; and

**WHEREAS**, the Governing Body has determined that it is in the best interest of the Borough to lease the afore-referenced Leased Premises to the County for the installation and construction of a 100' high wireless communications monopole and related appurtenances; and

WHEREAS, there has been prepared a certain Lease Agreement by and between the Borough and the County to memorialize the transaction and lease.

**NOW, THEREFORE, BE IT ORDAINED**, by the Governing Body of the Borough of Kinnelon, County of Morris, State of New Jersey, as follows:

**SECTION 1.** The terms and conditions of a certain Lease Agreement by and between the Borough of Kinnelon ("Borough") and the County of Morris ("County") which Lease Agreement

is on file in the office of the Municipal Clerk of the Borough of Kinnelon at the Municipal Building, 130 Kinnelon Road, Kinnelon, New Jersey 07405 and available for public inspection and copying during the hours of 9:00AM and 3:00PM Monday through Thursday are hereby approved, ratified and confirmed by the Borough

**SECTION 2.** The Mayor and Borough Clerk are hereby authorized and directed to execute the Lease Agreement above-referenced upon the approval thereof by the County withg such minor and non-substantive changes as may be approved by the Mayor, Borough Administrator and Borough Attorney, PROVIDED, HOWEVER, that the essential terms and conditions remain in effect..

**SECTION 3.** The Mayor and Borough Clerk, along with all other appropriate elected and appointed officials and professionals are hereby authorized and directed to take all steps necessary to effectuate the terms, conditions and purposes of this ordinance.

**SECTION 4.** All ordinances, resolutions and regulations or parts of ordinances, resolutions and regulations inconsistent herewith are hereby repealed to the extent of such inconsistency.

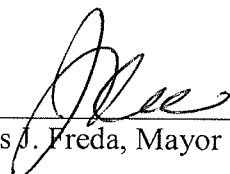
**SECTION 5.** If any section, paragraph, article, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply to the section, paragraph, article, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

**SECTION 6.** This Ordinance shall take effect after approval and publication as required by law.

ATTEST:

BOROUGH OF KINNELON

  
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Karen M. Iuele, RMC, Borough Clerk

  
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James J. Freda, Mayor