

AMENDED ORDINANCE
OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK,
AMENDING CITY CODE CHAPTER 172, “STREETS AND SIDEWALKS” TO
RENAME THE CHAPTER, DIVIDE THE CHAPTER INTO ARTICLE I,
“GENERAL PROVISIONS” AND ARTICLE II, “WIRELESS
TELECOMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY”
AND ADD §172-7, “SCOPE”, §172-8 “DEFINITIONS”, §172-9 “GENERAL
STANDARDS FOR WIRELESS TELECOMMUNICATIONS FACILITIES IN
THE RIGHTS-OF-WAY”, § 172-10 “APPLICATION SUBMISSION
REQUIREMENTS”, §172-11 “TERMINATION OF PERMIT/BREACH”; §175-12,
“INFRASTRUCTURE OWNED OR CONTROLLED BY THE CITY”, §172-13.
INSURANCE, §172-14. MAKE-READY WORK, §172-15 RIGHT-OF -WAY
REPAIR. §172-16. FACILITIES NO LONGER NEEDED, §172-17 SURETY BONDS
AND AMEND CHAPTER 110, “FEES AND PENALTIES”, §110-1, “FEES AND
INTERESTS” TO PROVIDE FOR CERTAIN STANDARDS AND
REGULATIONS RELATING TO THE LOCATION OF SMALL WIRELESS
TELECOMMUNICATIONS TOWERS, ANTENNAS, AND OTHER
STRUCTURES WITHIN THE CITY’S PUBLIC RIGHTS-OF-WAY OR ON
CITY PROPERTY, CONSISTENT WITH FEDERAL AND STATE LAW; AND
PROVIDING A FEE AND ANNUAL CHARGE.

WHEREAS, §5-202 of the Local Government Article of the Annotated Code of Maryland provides that the Mayor and Council of the City of College Park have the authority to pass such ordinances as it deems necessary to preserve peace and good order, and to protect the health, comfort and convenience of the residents of the municipality; and

WHEREAS, the City Charter, Article XI, “Public Ways, Sidewalks and Special Assessments”, §§11-2 and 11-3, authorize the City to control its rights of way and make provision for construction in the rights of way; and

WHEREAS, the Mayor and Council determined that it is in the public interest to provide for regulation of the installation of wireless telecommunications facilities in the City’s rights of way that is consistent with federal and state law.

CAPS	: Indicate matter added to existing law.
[Brackets]	: Indicate matter deleted from law.
Asterisks ***	: Indicate matter remaining unchanged in existing law but not set forth in Ordinance
CAPS	: Indicate matter added in amendment
[Brackets]	: Indicate matter deleted in amendment

Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Council of the City of College Park, Maryland that Chapter 172, “Streets and Sidewalks” be and it is hereby repealed, re-enacted and amended to rename the chapter and divide the chapter into Articles I and II to read as follows:

Chapter 172, Streets, [~~and~~] Sidewalks, PUBLIC PROPERTY AND RIGHTS-OF-WAY

ARTICLE I GENERAL PROVISIONS

ARTICLE II WIRELESS TELECOMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY

Section 2. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park Maryland that Chapter 172 “Streets and Sidewalks”, Article II, §172-7, “Scope”, be and it is hereby enacted to read as follows:

§172-7 **SCOPE.**

A. IN GENERAL. UNLESS EXEMPTED, EVERY PERSON WHO DESIRES TO PLACE A SMALL WIRELESS TELECOMMUNICATIONS FACILITY IN CITY RIGHTS-OF-WAY, TO INCLUDE DEPLOYMENT OF PERSONAL WIRELESS SERVICE INFRASTRUCTURE, OR MODIFY AN EXISTING WIRELESS TELECOMMUNICATIONS FACILITY, INCLUDING WITHOUT LIMITATION FOR THE:

- (1) COLLOCATION OF A SMALL WIRELESS FACILITY;
- (2) ATTACHMENT OF A SMALL WIRELESS FACILITY TO A POLE OWNED BY AN AUTHORITY;
- (3) INSTALLATION OF A POLE;

(4) MODIFICATION OF A SMALL WIRELESS FACILITY OR A POLE.

MUST OBTAIN A WIRELESS PLACEMENT PERMIT AUTHORIZING THE PLACEMENT OR MODIFICATION.

B. EXEMPTIONS. THE FOLLOWING ARE EXEMPTED FROM THE REQUIREMENTS OF THIS CHAPTER:

- (1) THE PLACEMENT OR MODIFICATION OF WIRELESS TELECOMMUNICATIONS FACILITIES ON SUPPORTING STRUCTURES OWNED, OR UNDER THE CONTROL OF, THE CITY, THE USE OF WHICH IS SUBJECT TO A CONTRACT FOR USE OF THE FACILITY BETWEEN THE CITY AND THE ENTITY OR ENTITIES THAT OWN OR CONTROL THE WIRELESS TELECOMMUNICATIONS FACILITY;
- (2) THE PLACEMENT OR MODIFICATION OF WIRELESS FACILITIES BY THE CITY OR BY ANY OTHER AGENCY OF THE STATE SOLELY FOR PUBLIC SAFETY PURPOSES.
- (3) MODIFICATIONS TO AN EXISTING WIRELESS TELECOMMUNICATIONS FACILITY THAT MAKES NO MATERIAL CHANGE TO THE FOOTPRINT OF A FACILITY OR TO THE SURFACE OR SUBSURFACE OF A PUBLIC STREET IF THE ACTIVITY DOES NOT DISRUPT

OR IMPEDE TRAFFIC IN THE TRAVELED PORTION OF A STREET, AND IF THE WORK ACTIVITY DOES NOT CHANGE THE VISUAL OR AUDIBLE CHARACTERISTICS OF THE WIRELESS TELECOMMUNICATIONS FACILITY. THE CITY, BY REGULATION, MAY ALSO EXEMPT WIRELESS TELECOMMUNICATIONS FACILITIES THAT OTHERWISE ARE SUBJECT TO THE PROVISIONS OF THIS SECTION FROM THE OBLIGATION TO OBTAIN A PERMIT TO INSTALL OR MODIFY A WIRELESS TELECOMMUNICATIONS FACILITY WHERE IT IS DETERMINED THAT BECAUSE OF THE PHYSICAL CHARACTERISTICS OF THE PROPOSED FACILITIES, AND THE WORK ASSOCIATED WITH THEM, SUCH A PERMIT IS NOT REQUIRED TO PROTECT THE PUBLIC HEALTH, WELFARE OR SAFETY, TO MAINTAIN THE CHARACTER OF A NEIGHBORHOOD OR CORRIDOR, OR TO OTHERWISE SERVE THE PURPOSES OF THIS ORDINANCE.

- (4) INSTALLATION OF A MOBILE CELL FACILITY OR A SIMILAR STRUCTURE FOR A TEMPORARY PERIOD IN CONNECTION WITH AN EMERGENCY OR EVENT, BUT NO LONGER THAN REQUIRED FOR THE EMERGENCY

OR EVENT, PROVIDED THAT INSTALLATION DOES NOT INVOLVE EXCAVATION, MOVEMENT OR REMOVAL OF EXISTING FACILITIES , AND THAT AT LEAST 30 DAYS PRIOR WRITTEN NOTIFICATION IS PROVIDED TO THE CITY, AND CONSENT FOR PLACEMENT IS GRANTED.

- (5) A MICRO WIRELESS FACILITY STRUNG BETWEEN TWO UTILITY POLES AS DEFINED IN §172-8 AND PROVIDED FURTHER THAT THE INSTALLATION DOES NOT REQUIRE REPLACEMENT REPLACEMENT OF THE STRAND, OR EXCAVATION, MODIFICATION OR REPLACEMENT OF THE UTILITY POLES.

C. OTHER APPLICABLE REQUIREMENTS. IN ADDITION TO THE WIRELESS TELECOMMUNICATIONS PERMIT REQUIRED HEREIN, THE PLACEMENT OF A WIRELESS TELECOMMUNICATIONS FACILITY IN THE PUBLIC-RIGHTS OF WAY REQUIRES THE PERSONS WHO WILL OWN OR CONTROL THOSE FACILITIES TO OBTAIN THE FRANCHISES, LICENSE AGREEMENTS AND PERMITS REQUIRED BY APPLICABLE LAW, AND TO COMPLY WITH APPLICABLE LAW, INCLUDING, BUT NOT LIMITED TO, APPLICABLE LAW GOVERNING RADIO FREQUENCY (RF) EMISSIONS. NOTHING IN THIS CHAPTER PRECLUDES THE TOWN FROM APPLYING ITS GENERALLY APPLICABLE HEALTH, SAFETY, AND WELFARE REGULATIONS

WHEN GRANTING CONSENT FOR A SMALL CELL FACILITY OR WIRELESS SUPPORT STRUCTURE IN THE TOWN'S RIGHT OF WAY.

D. PUBLIC USE. EXCEPT AS OTHERWISE PROVIDED BY MARYLAND LAW, ANY USE OF THE RIGHT OF WAY AUTHORIZED PURSUANT TO THIS CHAPTER WILL BE SUBORDINATE TO THE CITY'S USE AND USE BY THE PUBLIC.

Section 3. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park Maryland that Chapter 172 “Streets and Sidewalks”, Article II, §172-8, “Definitions”, be and it is hereby enacted to read as follows:

§172-8 DEFINITIONS.

TERMS USED IN THIS ARTICLE SHALL HAVE THE FOLLOWING MEANINGS:

A. APPLICATION: A FORMAL REQUEST, INCLUDING ALL REQUIRED AND REQUESTED DOCUMENTATION AND INFORMATION SUBMITTED BY AN APPLICANT TO THE CITY FOR A WIRELESS PLACEMENT PERMIT.

B. APPLICANT: A PERSON FILING AN APPLICATION FOR PLACEMENT OR MODIFICATION OF A WIRELESS TELECOMMUNICATIONS FACILITY IN THE RIGHTS-OF-WAY.

C. ANTENNA: ~~[COMMUNICATIONS EQUIPMENT THAT TRANSMITS AND/OR RECEIVES ELECTROMAGNETIC RADIO FREQUENCY SIGNALS USED IN THE PROVISION OF WIRELESS SERVICES. THIS DEFINITION DOES NOT APPLY TO BROADCAST ANTENNAS, ANTENNAS DESIGNED FOR AMATEUR~~

~~RADIO USE, OR SATELLITE DISHES FOR RESIDENTIAL OR HOUSEHOLD PURPOSES.] AN APARATUS DESIGED TO EMIT RADIO FREQUENCY (RF) AND OPERATE FROM A FIXED LOCATION TO PROVIDE WIRELESS SERVICES.~~

D. ANTENNA EQUIPMENT: EQUIPMENT, SWITCHES, WIRING, CABLING, POWER SOURCES, SHELTERS OR CABINETS ASSOCIATED WITH AN ANTENNA, LOCATED AT THE SAME FIXED LOCATION AS THE ANTENNA, AND, WHEN COLLOCATED ON A STRUCTURE, IS MOUNTED OR INSTALLED AT THE SAME TIME AS SUCH ANTENNA.

E. APPLICABLE LAWS/CODES: UNIFORM BUILDING, FIRE, SAFETY, ELECTRICAL, PLUMBING, OR MECHANICAL CODES ADOPTED BY A RECOGNIZED NATIONAL CODE ORGANIZATION TO THE EXTENT SUCH CODES HAVE BEEN ADOPTED BY THE CITY, INCLUDING ANY AMENDMENTS ADOPTED BY THE CITY, OR OTHERWISE ARE APPLICABLE IN THE JURISDICTION.

F. BASE STATION: THE TERM BASE STATION SHALL HAS THE SAME MEANING AS IN 47 C.F.R. SECTION 1.40001.

G. CERTIFICATE OF COMPLETION: A DOCUMENT THAT IS REQUIRED FROM AND ISSUED BY THE CITY CONFIRMING THAT ALL WORK DESCRIBED IN THE APPLICATION, AS APPROVED: (I) WAS PROPERLY PERMITTED, INCLUDING, WITHOUT LIMITATION, ALL REQUIRED PERMITS FOR BUILDING, ELECTRICAL WORK, STREET OR CURB CUTTING, AND EXCAVATION; (II) WAS DONE IN COMPLIANCE WITH

AND FULFILLMENT OF ALL CONDITIONS OF ALL PERMITS, INCLUDING ALL STATED DEADLINES; (III) WAS FULLY CONSTRUCTED AND/OR PLACED AS APPROVED AND PERMITTED; AND (IV) WAS FINALLY INSPECTED BY THE CITY, AND WAS APPROVED BY THE CITY AFTER SAID FINAL INSPECTION.

H. COLLOCATE: TO INSTALL OR MOUNT A SMALL WIRELESS FACILITY IN THE PUBLIC ROW ON AN EXISTING SUPPORT STRUCTURE, AN EXISTING TOWER, OR ON AN EXISTING POLE TO WHICH A SMALL WIRELESS FACILITY IS ATTACHED AT THE TIME OF THE APPLICATION. "COLLOCATION" HAS A CORRESPONDING MEANING.

I. MAKE-READY WORK: WORK THAT AN AUTHORITY REASONABLY DETERMINES TO BE REQUIRED TO ACCOMMODATE A WIRELESS INFRASTRUCTURE PROVIDER'S INSTALLATION UNDER THIS SUBTITLE AND TO COMPLY WITH ALL APPLICABLE STANDARDS. THE WORK MAY INCLUDE, BUT IS NOT LIMITED TO, REPAIR, REARRANGEMENT, REPLACEMENT AND CONSTRUCTION OF POLE; INSPECTIONS; ENGINEERING WORK AND CERTIFICATION; PERMITTING WORK; TREE TRIMMING (OTHER THAN TREE TRIMMING PERFORMED FOR NORMAL MAINTENANCE PURPOSES); SITE PREPARATION; AND ELECTRICAL POWER CONFIGURATION. THE TERM DOES NOT INCLUDE A WIRELESS INFRASTRUCTURE PROVIDER'S ROUTINE MAINTENANCE.

J. RIGHTS-OF-WAY: THE TERM RIGHTS-OF-WAY INCLUDE ANY PORTION OF ANY STREET, ROAD OR PUBLIC WAY WHICH THE CITY HAS THE RESPONSIBILITY TO MAINTAIN OR MANAGE.

K. MICRO WIRELESS FACILITY: A SMALL WIRELESS FACILITY HAVING DIMENSIONS NO LARGER THAN 24 INCHES IN LENGTH, 15 INCHES IN WIDTH AND 12 INCHES IN HEIGHT AND AN EXTERIOR ANTENNA, IF ANY, NO LONGER THAN 11 INCHES.

L. SMALL WIRELESS FACILITY: CONSISTENT WITH SUBPART U, PART 1 OF TITLE 47, "STATE AND LOCAL GOVERNMENT REGULATION OF THE PLACEMENT, CONSTRUCTION, AND MODIFICATION OF PERSONAL WIRELESS SERVICE FACILITIES", A FACILITY THAT MEETS EACH OF THE FOLLOWING CONDITIONS:

- a. THE STRUCTURE ON WHICH ANTENNA FACILITIES ARE MOUNTED—
 - i. IS 50 FEET OR LESS IN HEIGHT, OR
 - ii. IS NO MORE THAN 10 PERCENT TALLER THAN OTHER ADJACENT STRUCTURES, OR
 - iii. IS NOT EXTENDED TO A HEIGHT OF MORE THAN 10 PERCENT ABOVE ITS PREEXISTING HEIGHT AS A RESULT OF THE COLLOCATION OF NEW ANTENNA FACILITIES; AND

- b. EACH ANTENNA (EXCLUDING ASSOCIATED ANTENNA EQUIPMENT) IS NO MORE THAN THREE CUBIC FEET IN VOLUME; AND
- c. ALL ANTENNA EQUIPMENT ASSOCIATED WITH THE FACILITY (EXCLUDING ANTENNAS) ARE CUMULATIVELY NO MORE THAN 28 CUBIC FEET IN VOLUME; AND
- d. THE FACILITY DOES NOT REQUIRE ANTENNA STRUCTURE REGISTRATION;
- e. THE FACILITY DOES NOT RESULT IN HUMAN EXPOSURE TO RADIOFREQUENCY RADIATION IN EXCESS OF THE APPLICABLE SAFETY STANDARDS SPECIFIED BY FEDERAL LAW

M. SUPPORT STRUCTURE: ANY STRUCTURE CAPABLE OF SUPPORTING A BASE STATION.

N. TOWER: ANY STRUCTURE BUILT FOR THE SOLE OR PRIMARY PURPOSE OF SUPPORTING ANY FCC-LICENSED OR AUTHORIZED ANTENNAS AND THEIR ASSOCIATED FACILITIES, INCLUDING STRUCTURES THAT ARE CONSTRUCTED FOR WIRELESS COMMUNICATIONS SERVICES INCLUDING, BUT NOT LIMITED TO, PRIVATE, BROADCAST, AND PUBLIC SAFETY SERVICES, AS WELL AS UNLICENSED WIRELESS SERVICES AND FIXED WIRELESS SERVICES

SUCH AS MICROWAVE BACKHAUL, AND THE ASSOCIATED SITE. THIS DEFINITION DOES NOT INCLUDE UTILITY POLES.

O. UTILITY POLE: A STRUCTURE IN THE RIGHTS OF WAY DESIGNED TO SUPPORT ELECTRIC, TELEPHONE AND SIMILAR UTILITY LINES. A TOWER IS NOT A UTILITY POLE.

P. WIRELESS PERMIT: A PERMIT ISSUED PURSUANT TO THIS CHAPTER AND AUTHORIZING THE PLACEMENT OR MODIFICATION OF A WIRELESS TELECOMMUNICATIONS FACILITY OF A DESIGN SPECIFIED IN THE PERMIT AT A PARTICULAR LOCATION WITHIN THE RIGHTS OF WAY; AND THE MODIFICATION OF ANY EXISTING SUPPORT STRUCTURE TO WHICH THE WIRELESS TELECOMMUNICATIONS FACILITY IS PROPOSED TO BE ATTACHED.

Q. WIRELESS SERVICE PROVIDER. AN ENTITY THAT PROVIDES WIRELESS SERVICES TO END USERS.

R. WIRELESS INFRASTRUCTURE PROVIDER: A PERSON THAT OWNS, CONTROLS, OPERATES OR MANAGES A WIRELESS TELECOMMUNICATION FACILITY OR PORTION THEREOF WITHIN THE RIGHT-OF-WAY.

S. WIRELESS REGULATIONS: THOSE REGULATIONS ADOPTED TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE.

T. WIRELESS TELECOMMUNICATIONS FACILITY, OR FACILITY: [~~A FACILITY AT A FIXED LOCATION CONSISTING OF A BASE STATION, ANY ACCESSORY EQUIPMENT, AND THE TOWER AND UNDERGROUND~~

WIRING, IF ANY, ASSOCIATED WITH THE BASE STATION.] EQUIPMENT AT A FIXED LOCATION THAT ENABLES WIRELESS COMMUNICATIONS BETWEEN USER EQUIPMENT AND A COMMUNICATIONS NETWORK INCLUDING WITHOUT LIMITATION RADIO TRANSCEIVERS, ANTENNAS, BASE STATION, UNDERGROUND WIRING, COAXIAL OR FIBER-OPTIC CABLE, REGULAR AND BACKUP POWER SUPPLIES, AND COMPARABLE EQUIPMENT, REGARDLESS OF TECHNOLOGICAL CONFIGURATION.

Section 4. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park Maryland that Chapter 172 “Streets and Sidewalks”, Article II, §172-9, “General Standards for Wireless Telecommunications Facilities in the Rights-of-Way” be and it is hereby repealed, re-enacted and amended to read as follows:

§172-9 GENERAL STANDARDS FOR WIRELESS TELECOMMUNICATIONS FACILITIES IN THE RIGHTS-OF-WAY.

A. GENERALLY. WIRELESS TELECOMMUNICATIONS FACILITIES SHALL MEET THE MINIMUM REQUIREMENTS SET FORTH IN THIS CHAPTER AND THE WIRELESS REGULATIONS APPROVED BY THE MAYOR AND COUNCIL, IN ADDITION TO THE REQUIREMENTS OF ANY OTHER APPLICABLE LAW.

B. REGULATIONS. THE WIRELESS REGULATIONS AND ADMINISTRATIVE DECISIONS ON APPLICATIONS FOR PLACEMENT OF WIRELESS TELECOMMUNICATIONS FACILITIES IN THE RIGHTS OF WAY SHALL,

AT A MINIMUM, ENSURE THAT THE REQUIREMENTS OF THIS SECTION ARE SATISFIED, UNLESS IT IS DETERMINED THAT APPLICANT HAS ESTABLISHED THAT DENIAL OF AN APPLICATION WOULD, WITHIN THE MEANING OF FEDERAL LAW, PROHIBIT OR EFFECTIVELY PROHIBIT THE PROVISION OF PERSONAL WIRELESS SERVICES, OR OTHERWISE VIOLATE APPLICABLE LAWS OR REGULATIONS. IF THAT DETERMINATION IS MADE, THE REQUIREMENTS OF THIS CHAPTER AND ANY CITY WIRELESS REGULATIONS MAY BE WAIVED, BUT ONLY TO THE MINIMUM EXTENT REQUIRED TO AVOID THE PROHIBITION.

C. STANDARDS. WIRELESS TELECOMMUNICATIONS FACILITIES SHALL BE INSTALLED AND MODIFIED IN A MANNER THAT:

- (1) MINIMIZES RISKS TO PUBLIC SAFETY, AVOIDS PLACEMENT OF ABOVEGROUND FACILITIES IN UNDERGROUND AREAS, AVOIDS INSTALLATION OF NEW SUPPORT STRUCTURES OR EQUIPMENT CABINETS IN THE PUBLIC RIGHTS OF WAY, AND MAXIMIZES USE OF EXISTING STRUCTURES AND POLES, AVOIDS PLACEMENT IN RESIDENTIAL AREAS WHEN COMMERCIAL AREAS ARE REASONABLY AVAILABLE, AND OTHERWISE MAINTAINS THE INTEGRITY AND CHARACTER OF THE NEIGHBORHOODS AND CORRIDORS IN WHICH THE FACILITIES ARE LOCATED;
- (2) ENSURES THAT INSTALLATIONS ARE SUBJECT TO PERIODIC

REVIEW TO MINIMIZE THE INTRUSION ON THE RIGHTS OF WAY;
AND

- (3) ENSURES THAT THE CITY BEARS NO RISK OR LIABILITY AS A RESULT OF THE INSTALLATIONS, AND THAT SUCH USE DOES NOT INCONVENIENCE THE PUBLIC, INTERFERE WITH THE PRIMARY USES OF THE PUBLIC RIGHTS OF WAY, OR HINDER THE ABILITY OF THE CITY OR OTHER GOVERNMENT AGENCIES TO IMPROVE, MODIFY, RELOCATE, ABANDON OR VACATE THE PUBLIC RIGHTS OF WAY OR ANY PORTION THEREOF, OR TO CAUSE THE IMPROVEMENT, MODIFICATION, RELOCATION, VACATION OR ABANDONMENT OF FACILITIES IN THE RIGHTS OF WAY.

- (4) ENSURES THAT LOCATION OF FACILITIES ON EXISTING POLES OR STRUCTURES IS WITHIN THE TOLERANCE OF THOSE POLES OR STRUCTURES.

D. CONCEALMENT. PERMITS FOR WIRELESS TELECOMMUNICATIONS FACILITIES SHALL INCORPORATE SPECIFIC CONCEALMENT ELEMENTS TO MINIMIZE VISUAL IMPACTS, AND DESIGN REQUIREMENTS ENSURING COMPLIANCE WITH ALL STANDARDS FOR NOISE EMISSIONS. UNLESS IT IS DETERMINED THAT ANOTHER DESIGN IS LESS INTRUSIVE, OR PLACEMENT IS REQUIRED UNDER APPLICABLE LAW:

- (1) ANTENNAS LOCATED AT THE TOP OF SUPPORT STRUCTURES

SHALL BE INCORPORATED INTO THE STRUCTURE, OR
PLACED

WITHIN SHROUDS OF A SIZE SUCH THAT THE ANTENNA
APPEARS

TO BE PART OF THE SUPPORT STRUCTURE;

- (2) ANTENNAS PLACED ELSEWHERE ON A SUPPORT STRUCTURE
SHALL BE INTEGRATED INTO THE STRUCTURE, OR BE
DESIGNED AND PLACED TO MINIMIZE VISUAL IMPACTS.
- (3) RADIO UNITS OR EQUIPMENT CABINETS HOLDING RADIO
UNITS AND MOUNTED ON A UTILITY POLE SHALL BE PLACED
AS HIGH AS POSSIBLE ON A SUPPORT STRUCTURE, LOCATED
TO AVOID INTERFERING WITH, OR CREATING ANY HAZARD
TO, ANY OTHER USE OF THE PUBLIC RIGHTS OF WAY, AND
LOCATED ON ONE SIDE OF THE UTILITY POLE. UNLESS THE
RADIO UNITS OR EQUIPMENT CABINETS CAN BE
CONCEALED BY APPROPRIATE TRAFFIC SIGNAGE, RADIO
UNITS OR EQUIPMENT CABINETS MOUNTED BELOW THE
COMMUNICATIONS SPACE ON UTILITY POLES SHALL BE
DESIGNED SO THAT THE LARGEST DIMENSION IS VERTICAL,
AND THE WIDTH IS SUCH THAT THE RADIO UNITS OR
EQUIPMENT CABINETS ARE MINIMALLY VISIBLE FROM THE
OPPOSITE SIDE OF THE SUPPORT STRUCTURE ON WHICH

THEY ARE PLACED.

- (4) WIRING AND CABLING SHALL BE NEAT AND CONCEALED WITHIN OR FLUSH TO THE SUPPORT STRUCTURE, ENSURING CONCEALMENT OF THESE COMPONENTS TO THE GREATEST EXTENT POSSIBLE.
- (5) GROUND-MOUNTED EQUIPMENT ASSOCIATED WITH A WIRELESS TELECOMMUNICATIONS FACILITY SHALL BE PERMITTED ONLY WHERE CONSISTENT WITH THE PORTION OF THE CORRIDOR IN WHICH IT IS TO BE PLACED, AND MAY BE REQUIRED TO BE UNDERGROUND, LOCATED IN ALLEYS OR OTHERWISE SHIELDED. IN NO EVENT MAY GROUND-MOUNTED EQUIPMENT INTERFERE WITH PEDESTRIAN OR VEHICULAR TRAFFIC.
- (6) NO PERMIT SHALL BE ISSUED OR EFFECTIVE UNLESS IT IS SHOWN THAT THE WIRELESS TELECOMMUNICATIONS FACILITY WILL COMPLY WITH FEDERAL COMMUNICATION COMMISSION ("FCC") REGULATIONS GOVERNING RADIO FREQUENCY ("RF") EMISSIONS. EVERY WIRELESS FACILITY SHALL AT ALL TIMES COMPLY WITH APPLICABLE FCC REGULATIONS GOVERNING RF EMISSIONS, AND FAILURE TO COMPLY THEREWITH SHALL BE TREATED AS A MATERIAL VIOLATION OF THE TERMS OF ANY PERMIT OR

LEASE.

- (7) NO TOWERS SHALL BE PERMITTED IN THE PUBLIC RIGHTS OF WAY, AND NO WIRELESS TELECOMMUNICATIONS FACILITIES SHALL BE PERMITTED ABOVE-GROUND IN UNDERGROUND AREAS; PROVIDED THAT THE CITY MAY PERMIT PLACEMENTS WHERE ALL ELEMENTS OF THE WIRELESS TELECOMMUNICATIONS FACILITY ARE CONCEALED AND THE FACILITY DOES NOT APPEAR TO A CASUAL OBSERVER TO BE A WIRELESS TELECOMMUNICATIONS FACILITY.
- (8) NO PERMIT SHALL ISSUE EXCEPT TO WIRELESS SERVICE PROVIDERS WITH IMMEDIATE PLANS FOR USE OF THE PROPOSED WIRELESS TELECOMMUNICATIONS FACILITY; OR WIRELESS INFRASTRUCTURE PROVIDERS WITH CONTRACTS WITH WIRELESS SERVICE PROVIDERS WHICH REQUIRE THE SERVICE PROVIDER IMMEDIATELY TO USE THE PROPOSED WIRELESS TELECOMMUNICATIONS FACILITY.
- (9) UNLESS APPROPRIATELY PLACED, AND CONCEALED, SO THAT THE SIZE OF THE FACILITY CANNOT BE INCREASED EXCEPT WITH THE DISCRETIONARY APPROVAL OF THE CITY, NO WIRELESS TELECOMMUNICATIONS FACILITY IS

PERMITTED IN RIGHTS-OF-WAY IN ALLEYS.

- (10) NOT WIRELESS TELECOMMUNICATIONS FACILITY IS PERMITTED IN ANY LOCAL HISTORIC DISTRICT WITHOUT THE APPROVAL OF THE PRINCE GEORGE’S COUNTY HISTORIC PRESERVATION COMMISSION.

Section 4. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park Maryland that Chapter 172, “Streets and Sidewalks”, Article II, §172-10, “Application submission requirements” be and it is hereby enacted to read as follows:

§ 172-10 APPLICATION SUBMISSION REQUIREMENTS AND FINAL INSPECTION.

A. SUBMISSION. APPLICANT SHALL SUBMIT A PAPER COPY AND AN ELECTRONIC COPY OF ANY APPLICATION, AMENDMENTS OR SUPPLEMENTS TO AN APPLICATION, OR RESPONSES TO REQUESTS FOR INFORMATION REGARDING AN APPLICATION, TO THE DESIGNATED CITY DEPARTMENT.

B. CONTENT. AN APPLICATION MUST CONTAIN:

- (1) THE NAME OF THE APPLICANT, ITS TELEPHONE NUMBER AND CONTACT INFORMATION, AND IF THE APPLICANT IS A WIRELESS INFRASTRUCTURE PROVIDER, THE NAME AND CONTACT INFORMATION FOR THE WIRELESS SERVICE PROVIDER THAT WILL BE

USING THE WIRELESS TELECOMMUNICATIONS FACILITY;

- (2) A COMPLETE DESCRIPTION OF THE PROPOSED WIRELESS TELECOMMUNICATIONS FACILITY AND THE WORK THAT WILL BE REQUIRED TO INSTALL OR MODIFY IT, INCLUDING BUT NOT LIMITED TO DETAIL REGARDING PROPOSED EXCAVATIONS, IF ANY; DETAILED SITE PLANS SHOWING THE LOCATION OF THE WIRELESS TELECOMMUNICATIONS FACILITY, AND SPECIFICATIONS FOR EACH ELEMENT OF THE WIRELESS TELECOMMUNICATIONS FACILITY, CLEARLY DESCRIBING THE SITE AND ALL STRUCTURES AND FACILITIES AT THE SITE BEFORE AND AFTER INSTALLATION OR MODIFICATION; AND A DESCRIPTION OF THE DISTANCE TO THE NEAREST RESIDENTIAL DWELLING UNIT AND ANY CONTRIBUTING HISTORICAL STRUCTURE WITHIN 500 FEET OF THE FACILITY. BEFORE AND AFTER 360 DEGREE PHOTO SIMULATIONS MUST BE PROVIDED. THE ELECTRONIC VERSION OF AN APPLICATION MUST BE IN A STANDARD FORMAT THAT CAN BE EASILY UPLOADED ON A WEB PAGE FOR REVIEW BY THE PUBLIC.
- (3) AN APPLICATION FOR MODIFICATION OF AN ELIGIBLE

SUPPORT STRUCTURE MUST CONTAIN INFORMATION SUFFICIENT TO SHOW THAT THE APPLICATION QUALIFIES UNDER OF 47 C.F.R. SECTION 1.40001. THE APPLICATION MUST RELATE TO AN EXISTING WIRELESS TELECOMMUNICATIONS FACILITY THAT HAS BEEN APPROVED BY THE CITY PURSUANT TO THIS ARTICLE. BEFORE AND AFTER 360 DEGREE PHOTO SIMULATIONS MUST BE PROVIDED WITH DETAILED SPECIFICATIONS DEMONSTRATING THAT THE MODIFICATION DOES NOT SUBSTANTIALLY CHANGE THE PHYSICAL DIMENSIONS OF THE EXISTING APPROVED STRUCTURE.

(4) AN APPLICATION FOR A PERMIT SHALL BE SUBMITTED IN THE FORMAT AND MANNER SPECIFIED BY THE DESIGNATED DEPARTMENT. APPLICATIONS MUST CONTAIN ALL INFORMATION REQUIRED HEREIN AND BY ANY WIRELESS REGULATIONS TO DEMONSTRATE THAT APPLICANT IS ENTITLED TO THE PERMIT REQUESTED.

(5) APPLICANT MUST PROVIDE ANY INFORMATION UPON WHICH IT RELIES IN SUPPORT OF A CLAIM THAT DENIAL OF THE APPLICATION WOULD PROHIBIT OR EFFECTIVELY PROHIBIT THE PROVISION OF SERVICE IN

VIOLATION OF FEDERAL LAW, OR OTHERWISE VIOLATE APPLICABLE LAW. APPLICANTS ARE NOT PERMITTED TO SUPPLEMENT THIS SHOWING IF DOING SO WOULD PREVENT CITY FROM COMPLYING WITH ANY DEADLINE FOR ACTION ON AN APPLICATION.

- (6) PROOF THAT NOTICE HAS BEEN MAILED TO OWNERS OF ALL PROPERTY, AND THE RESIDENT MANAGER FOR ANY MULTI-FAMILY DWELLING UNIT THAT INCLUDES TEN (10) OR MORE UNITS, WITHIN 300 FEET OF THE PROPOSED WIRELESS TELECOMMUNICATIONS FACILITY.
- (7) A COPY OF ANY POLE OR STRUCTURE ATTACHMENT AGREEMENT MUST BE PROVIDED, AS WELL AS SUFFICIENT INFORMATION TO DETERMINE THAT THE INSTALLATION CAN BE SUPPORTED BY AND DOES NOT EXCEED THE TOLERANCES OF THE POLE OR STRUCTURE.
- (8) PAYMENT OF ANY REQUIRED FEES.
- (9) BEFORE A PERMIT IS ISSUED, CONCURRENT AGREEMENT TO ANY REQUIRED FRANCHISE OR LICENSE AGREEMENT MUST BE PROVIDED.

C. FEES. [~~THE APPLICATION FEE FOR WIRELESS TELECOMMUNICATIONS FACILITIES~~] APPLICANT MUST PROVIDE AN APPLICATION FEE, AND SHALL BE REQUIRED TO PAY ALL COSTS

REASONABLY INCURRED BY CITY IN REVIEWING THE APPLICATION, INCLUDING COSTS INCURRED IN RETAINING OUTSIDE CONSULTANTS. APPLICANT SHALL ALSO PAY AN ACCESS FEE. FEES SHALL BE REVIEWED PERIODICALLY, AND RAISED OR LOWERED BASED ON COSTS THE CITY EXPECTS TO INCURE, ~~WITH A REVIEW COMMENCING BY THE FIRST ANNIVERSARY OF THE EFFECTIVE DATE OF THIS ORDINANCE~~].

D. WAIVERS. REQUESTS FOR WAIVERS FROM ANY REQUIREMENT OF THIS ARTICLE SHALL BE MADE IN WRITING TO THE CITY MANAGER OR DESIGNEE. THE SAME MAY GRANT A REQUEST FOR WAIVER IF IT IS DEMONSTRATED THAT, NOTWITHSTANDING THE ISSUANCE OF A WAIVER, THE CITY WILL BE PROVIDED ALL INFORMATION NECESSARY TO UNDERSTAND THE NATURE OF THE CONSTRUCTION OR OTHER ACTIVITY TO BE CONDUCTED PURSUANT TO THE PERMIT SOUGHT.

E. PROCESSING OF APPLICATIONS. FOR SMALL WIRELESS FACILITIES, PERSONAL WIRELESS FACILITIES, AS THOSE TERMS ARE DEFINED UNDER FEDERAL LAW, AND ELIGIBLE FACILITIES REQUESTS, AS THAT TERM IS DEFINED UNDER FEDERAL LAW, APPLICATIONS WILL BE PROCESSED IN CONFORMITY WITH STATE, LOCAL AND FEDERAL LAW, AS AMENDED. CURRENTLY, THE FCC HAS REQUIRED THAT SUCH APPLICATIONS BE PROCESSED WITHIN 60 DAYS OF RECEIPT OF A COMPLETED APPLICATION FOR

FACILITIES THAT WILL BE COLLOCATED ON PREEXISTING STRUCTURES, AND 90 DAYS FOR NEW CONSTRUCTION.

F. REJECTION FOR INCOMPLETENESS. NOTICES OF INCOMPLETENESS SHALL BE PROVIDED IN CONFORMITY WITH STATE, AND LOCAL AND FEDERAL LAW. IF SUCH AN APPLICATION IS INCOMPLETE, IT MAY BE REJECTED BY A WRITTEN ORDER SPECIFYING THE MATERIAL OMITTED FROM THE APPLICATION, OR THE CITY MAY NOTIFY THE APPLICANT OF THE MATERIAL OMITTED AND PROVIDE AN OPPORTUNITY TO SUBMIT THE MISSING MATERIAL. THE TIME IMPOSED BY FEDERAL, STATE OR LOCAL LAW FOR THE PROCESSING OF AN APPLICATION DOES NOT BEGIN TO RUN UNTIL AN APPLICATION IS COMPLETE.

G. FINAL INSPECTION. UPON COMPLETION OF THE APPROVED WORK, THE APPLICANT MUST FILE A STATEMENT OF THE PROFESSIONAL OPINION BY AN INDEPENDENT, QUALIFIED ENGINEER LICENSED IN THE STATE OF MARYLAND THAT INDICATES THAT THE INSTALLATION, BASED UPON THEIR ACTUAL INSPECTIONS, IN THEIR OPINION AND TO THE BEST OF THEIR KNOWLEDGE, MEETS THE REQUIREMENTS OF THE APPROVED PLAN DOCUMENTS, THIS ARTICLE AND OTHER APPLICABLE LAW. CERTIFICATIONS MUST BE SIGNED AND SEALED BY THE QUALIFIED ENGINEER MAKING THE STATEMENT. UPON RECEIPT OF THE STATEMENT, AND ANY REQUIRED CITY INSPECTION, THE WORK MAY BE ACCEPTED AND A

CERTIFICATE OF COMPLETION MAY BE ISSUED BY THE CITY.

Section 5. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park Maryland that Chapter 172, “Streets and Sidewalks”, Article II, §172-11, “Termination of permit/breach” be and it is hereby enacted to read as follows:

§172-11 TERMINATION OF PERMIT/BREACH.

A. FOR BREACH. A WIRELESS TELECOMMUNICATIONS PERMIT MAY BE REVOKED FOR FAILURE TO COMPLY WITH THE CONDITIONS OF THE PERMIT, FRANCHISE, LICENSE OR APPLICABLE LAW. UPON REVOCATION, THE WIRELESS TELECOMMUNICATIONS FACILITY MUST BE REMOVED WITHIN 30 DAYS OF WRITTEN NOTICE; PROVIDED THAT REMOVAL OF SUPPORT STRUCTURE OWNED BY CITY, A UTILITY, OR ANOTHER ENTITY AUTHORIZED TO MAINTAIN A SUPPORT STRUCTURE IN THE RIGHT OF WAY NEED NOT BE REMOVED, BUT MUST BE RESTORED TO ITS PRIOR CONDITION, EXCEPT AS SPECIFICALLY PERMITTED BY THE CITY. ALL COSTS INCURRED BY THE CITY IN CONNECTION WITH THE REVOCATION AND REMOVAL SHALL BE PAID BY ENTITIES WHO OWN OR CONTROL ANY PART OF THE WIRELESS TELECOMMUNICATIONS FACILITY.

B. FOR INSTALLATION WITHOUT A PERMIT. A WIRELESS TELECOMMUNICATIONS FACILITY INSTALLED WITHOUT A WIRELESS PERMIT (EXCEPT FOR THOSE EXEMPTED BY THIS ARTICLE) MUST BE REMOVED WITHIN 30 DAYS OF WRITTEN NOTICE; PROVIDED THAT REMOVAL OF SUPPORT STRUCTURE OWNED BY CITY, A UTILITY, OR ANOTHER ENTITY AUTHORIZED TO MAINTAIN A SUPPORT STRUCTURE IN THE RIGHT OF WAY NEED NOT BE REMOVED, BUT MUST BE RESTORED TO ITS PRIOR CONDITION, EXCEPT AS SPECIFICALLY PERMITTED BY THE CITY. ALL COSTS INCURRED BY THE CITY IN CONNECTION WITH THE REVOCATION AND REMOVAL SHALL BE PAID BY ENTITIES WHO OWN OR CONTROL ANY PART OF THE WIRELESS TELECOMMUNICATIONS FACILITY.

C. TERM. A WIRELESS PERMIT, OTHER THAN A PERMIT ISSUED PURSUANT TO AN ELIGIBLE FACILITIES REQUEST, SHALL BE VALID FOR A PERIOD OF FIVE (5) YEARS. AN ELIGIBLE FACILITIES PERMIT SHALL EXPIRE AT THE SAME TIME THE PERMIT FOR THE UNDERLYING EXISTING WIRELESS TELECOMMUNICATIONS FACILITY EXPIRES. A PERSON HOLDING A WIRELESS TELECOMMUNICATIONS PERMIT MUST EITHER REMOVE THE WIRELESS TELECOMMUNICATIONS FACILITY UPON EXPIRATION (PROVIDED THAT REMOVAL OF

SUPPORT STRUCTURE OWNED BY CITY, A UTILITY, OR ANOTHER ENTITY AUTHORIZED TO MAINTAIN A SUPPORT STRUCTURE IN THE RIGHT OF WAY NEED NOT BE REMOVED, BUT MUST BE RESTORED TO ITS PRIOR CONDITION, EXCEPT AS SPECIFICALLY PERMITTED BY THE CITY); OR, AT LEAST 90 DAYS PRIOR TO EXPIRATION, MUST SUBMIT AN APPLICATION TO RENEW THE PERMIT, WHICH APPLICATION MUST DEMONSTRATE THAT THE IMPACT OF THE WIRELESS TELECOMMUNICATIONS FACILITY CANNOT BE REDUCED. THE WIRELESS TELECOMMUNICATIONS FACILITY MUST REMAIN IN PLACE UNTIL IT IS ACTED UPON BY THE CITY, AND ANY APPEALS FROM THE CITY'S DECISION ARE EXHAUSTED.

Section 6. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park Maryland that Chapter 172 “Streets and Sidewalks”, Article II, §172-12, “Infrastructure owned or controlled by the City” be and it is hereby enacted to read as follows:

§172-12. INFRASTRUCTURE OWNED OR CONTROLLED BY THE CITY.

THE CITY MAY NEGOTIATE AGREEMENTS FOR USE OF CITY OWNED OR CONTROLLED LIGHT STANDARDS AND TRAFFIC SIGNALS IN THE PUBLIC RIGHTS OF WAY FOR PLACEMENT OF WIRELESS TELECOMMUNICATIONS FACILITIES ON THOSE STRUCTURES. THE AGREEMENT SHALL SPECIFY THE COMPENSATION TO THE CITY FOR USE OF THE STRUCTURES. THE

PERSON SEEKING THE AGREEMENT SHALL ADDITIONALLY REIMBURSE THE CITY FOR ALL COSTS THE CITY INCURS IN CONNECTION WITH ITS REVIEW OF, AND ACTION UPON THE PERSON'S REQUEST FOR AN AGREEMENT.

Section 7. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park Maryland that Chapter 172 “Streets and Sidewalks”, Article II, §172-13, “Insurance” be and it is hereby enacted to read as follows:

§172-13. INSURANCE.

- A. THE CITY SHALL REQUIRE A WIRELESS INFRASTRUCTURE PROVIDER TO INDEMNIFY AND HOLD HARMLESS THE CITY AND ITS OFFICIALS, OFFICERS AND EMPLOYEES AGAINST ANY LOSS, DAMAGE, OR LIABILITY TO THE EXTENT THAT IT IS CAUSED BY THE NEGLIGENT OR WILLFUL ACT OR OMISSION OF THE WIRELESS INFRASTRUCTURE PROVIDER WHO OWNS OR OPERATES SMALL WIRELESS FACILITIES OR POLES IN THE RIGHT-OF-WAY, ITS AGENTS, OFFICERS, DIRECTORS, REPRESENTATIVES, EMPLOYEES, AFFILIATES, OR SUBCONTRACTORS, OR THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS, OR REPRESENTATIVES.
- B. DURING THE PERIOD IN WHICH THE FACILITIES OF A WIRELESS INFRASTRUCTURE PROVIDER ARE LOCATED ON OR ATTACHED TO THE CITY’S ASSETS OR RIGHTS-OF-WAY, THE CITY MAY REQUIRE A WIRELESS INFRASTRUCTURE PROVIDER TO:

- (1) CARRY, AT THE WIRELESS INFRASTRUCTURE PROVIDER'S SOLE COST AND EXPENSE, THE FOLLOWING TYPES OF THIRD-PARTY INSURANCE:
- (i) PROPERTY INSURANCE FOR ITS PROPERTY'S REPLACEMENT COST AGAINST ALL RISKS;
- (ii) WORKERS' COMPENSATION INSURANCE, AS REQUIRED BY LAW;
- AND
- (iii) COMMERCIAL GENERAL LIABILITY INSURANCE WITH RESPECT TO ITS ACTIVITIES ON CITY IMPROVEMENTS OR RIGHTS-OF-WAY TO AFFORD PROTECTION WITH LIMITS NOT INCONSISTENT WITH ITS REQUIREMENTS OF OTHER USERS OF CITY IMPROVEMENTS OR RIGHTS-OF-WAY, INCLUDING COVERAGE FOR BODILY INJURY AND PROPERTY DAMAGE;
- AND
- (2) INCLUDE THE CITY AS AN ADDITIONAL INSURED ON THE COMMERCIAL GENERAL LIABILITY POLICY AND PROVIDE CERTIFICATION AND DOCUMENTATION OF INCLUSION OF THE CITY IN A COMMERCIAL GENERAL LIABILITY POLICY AS REASONABLY REQUIRED BY THE CITY.

Section 8. **BE IT FURTHER ORDAINED AND ENACTED** by the Mayor and Council of the City of College Park Maryland that Chapter 172 “Streets and Sidewalks”, Article II, §172-14, “Make-Ready Work” be and it is hereby enacted to read as follows:

§172-14. MAKE-READY WORK.

A. THE CITY MAY PROVIDE A WIRELESS INFRASTRUCTURE PROVIDER THE OPTION OF EITHER HAVING THE WIRELESS INFRASTRUCTURE PROVIDER PERFORM ANY NECESSARY MAKE-READY WORK THROUGH THE USE OF QUALIFIED CONTRACTORS AUTHORIZED BY THE CITY, OR HAVING THE CITY PERFORM ANY NECESSARY MAKE-READY WORK AT THE SOLE COST OF THE WIRELESS INFRASTRUCTURE PROVIDER.

B. UPON COMPLETION OF THE MAKE-READY WORK PERFORMED BY THE CITY AT THE REQUEST OF A WIRELESS INFRASTRUCTURE PROVIDER, THE WIRELESS INFRASTRUCTURE PROVIDER SHALL REIMBURSE THE CITY FOR THE CITY’S ACTUAL AND DOCUMENTED COST OF THE MAKE-READY WORK.

Section 9. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park Maryland that Chapter 172 “Streets and Sidewalks”, Article II, §172-15, “Right of Way Repair” be and it is hereby enacted to read as follows:

§172-15 RIGHT-OF -WAY REPAIR.

WIRELESS INFRASTRUCTURE PROVIDER SHALL BE REQUIRED TO PROMPTLY:

A. REPAIR ANY DAMAGE TO THE PUBLIC RIGHT-OF-WAY OR ANY DAMAGES TO FACILITIES IN THE RIGHT-OF-WAY DIRECTLY CAUSED BY THE ACTIVITIES OF THE WIRELESS INFRASTRUCTURE PROVIDER AND RETURN THE RIGHT-OF-WAY TO THE RIGHT-OF-WAY’S CONDITION PRIOR TO THE DAMAGES CAUSED BY THE WIRELESS

INFRASTRUCTURE PROVIDER.

- B. REMOVE AND RELOCATE THE PERMITTED SMALL CELL FACILITY AND/OR WIRELESS SUPPORT STRUCTURE AT THE WIRELESS INFRASTRUCTURE PROVIDER'S SOLE EXPENSE TO ACCOMMODATE CONSTRUCTION OF A PUBLIC IMPROVEMENT PROJECT BY THE CITY. IF THE WIRELESS INFRASTRUCTURE PROVIDER FAILS TO REMOVE OR RELOCATE THE SMALL CELL FACILITY AND/OR WIRELESS SUPPORT STRUCTURE OR PORTION THEREOF AS REQUESTED BY THE CITY WITHIN 120 DAYS OF THE CITY'S NOTICE, THEN THE CITY SHALL BE ENTITLED TO REMOVE THE SMALL CELL FACILITY AND/OR WIRELESS SUPPORT STRUCTURE, OR PORTION THEREOF AT THE WIRELESS INFRASTRUCTURE PROVIDER'S SOLE COST AND EXPENSE, WITHOUT FURTHER NOTICE TO THE WIRELESS INFRASTRUCTURE PROVIDER. THE WIRELESS INFRASTRUCTURE PROVIDER SHALL, WITHIN 30 DAYS FOLLOWING ISSUANCE OF INVOICE FOR THE SAME, REIMBURSE THE CITY FOR ITS REASONABLE EXPENSES INCURRED IN THE REMOVAL (INCLUDING, WITHOUT LIMITATION, OVERHEAD AND STORAGE EXPENSES) OF THE SMALL CELL FACILITIES AND/OR WIRELESS SUPPORT STRUCTURE, OR PORTION THEREOF.
- C. AT ITS SOLE COST AND EXPENSE, PROMPTLY DISCONNECT, REMOVE, OR RELOCATE THE APPLICABLE SMALL CELL FACILITY AND/OR

WIRELESS SUPPORT STRUCTURE WITHIN THE TIME FRAME AND IN THE MANNER REQUIRED BY THE CITY IF THE CITY REASONABLY DETERMINES THAT THE DISCONNECTION, REMOVAL, OR RELOCATION OF ANY PART OF A SMALL CELL FACILITY AND/OR WIRELESS SUPPORT STRUCTURE (A) IS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, WELFARE, OR CITY PROPERTY, OR (B) THE WIRELESS INFRASTRUCTURE PROVIDER FAILS TO OBTAIN ALL APPLICABLE LICENSES, PERMITS, AND CERTIFICATIONS REQUIRED BY LAW FOR ITS SMALL CELL FACILITY AND/OR WIRELESS SUPPORT STRUCTURE. IF THE CITY REASONABLY DETERMINES THAT THERE IS IMMINENT DANGER TO THE PUBLIC, THEN THE CITY MAY IMMEDIATELY DISCONNECT, REMOVE, OR RELOCATE THE APPLICABLE SMALL CELL FACILITY AND/OR WIRELESS SUPPORT STRUCTURE AT THE WIRELESS INFRASTRUCTURE PROVIDER'S SOLE COST AND EXPENSE.

Section 10. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park Maryland that Chapter 172 “Streets and Sidewalks”, Article II, §172-16, “Facilities no longer needed” be and it is hereby enacted to read as follows:

§172-16. FACILITIES NO LONGER NEEDED.

- A. A WIRELESS INFRASTRUCTURE PROVIDER SHALL PROMPTLY NOTIFY THE CITY OF A DECISION TO REMOVE FROM SERVICE A WIRELESS FACILITY LOCATED ON A PUBLIC RIGHT-OF-WAY.

- B. A WIRELESS INFRASTRUCTURE PROVIDER SHALL REMOVE A WIRELESS FACILITY THAT IS NO LONGER NEEDED FOR SERVICE AND LOCATED ON A PUBLIC RIGHT-OF-WAY AT THE SOLE COST AND EXPENSE OF THE WIRELESS INFRASTRUCTURE PROVIDER.
- C. IF THE CITY CONCLUDES THAT A WIRELESS FACILITY HAS BEEN ABANDONED IN PLACE, THE CITY MAY REMOVE THE WIRELESS FACILITY AND INVOICE THE WIRELESS INFRASTRUCTURE PROVIDER FOR THE ACTUAL AND DOCUMENTED COST INCURRED BY THE CITY FOR REMOVAL.
- D. UNTIL A WIRELESS FACILITY THAT IS LOCATED ON PUBLIC RIGHT-OF-WAY IS REMOVED FROM THE PUBLIC RIGHT-OF-WAY, A WIRELESS INFRASTRUCTURE PROVIDER SHALL PAY ALL FEES AND CHARGES DUE THE CITY, REGARDLESS OF WHETHER A WIRELESS FACILITY IS OPERATIONAL.

Section 11. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park Maryland that Chapter 172 “Streets and Sidewalks”, Article II, §172-17, “Surety bonds” be and it is hereby enacted to read as follows:

§172-17 SURETY BONDS

- A. THE CITY MAY REQUIRE A SURETY BONDING FOR WIRELESS INFRASTRUCTURE PROVIDERS.
- B. THE PURPOSE OF A SURETY BOND REQUIRED UNDER SUBSECTION (A)

OF THIS SECTION SHALL BE TO:

- (1) PROVIDE FOR THE REMOVAL OF ABANDONED OR IMPROPERLY MAINTAINED SMALL WIRELESS FACILITIES, INCLUDING THOSE THAT THE CITY REQUIRES TO BE REMOVED TO PROTECT PUBLIC HEALTH, SAFETY, OR WELFARE, AND RESTORE THE RIGHTS-OF-WAY; AND
- (2) RECOUP RATES OR FEES THAT HAVE NOT BEEN PAID BY A WIRELESS INFRASTRUCTURE PROVIDER, SUBJECT TO THIRTY (30) DAYS PRIOR WRITTEN NOTICE TO THE WIRELESS INFRASTRUCTURE PROVIDER AND THE OPPORTUNITY TO PAY THE RATES OR FEES OUTSTANDING.

Section 12. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park that Chapter 110 “Fees and Penalties”, §110-1, “Fees and interest” be and is hereby repealed and reenacted with amendments to read as follows:

§110-1 Fees and interests.

The following enumerations are the current fees, rates, charges and interests applicable in the City of College Park:

Chapter/Section	Description	Fee/Interest
* * * *		
172-10(C)	APPLICATION FEE	

\$500 FOR UP TO FIVE SMALL WIRELESS FACILITIES, WITH AN ADDITIONAL \$100 FOR EACH SMALL WIRELESS FACILITY OVER FIVE, OR \$1,000 FOR NON-RECURRING FEES FOR A NEW POLE, NOT A COLLOCATION INTENDED TO SUPPORT ONE OR MORE SMALL WIRELESS FACILITIES

ACCESS FEE - \$270 PER SMALL WIRELESS FACILITY PER YEAR

* * *

Section 13. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park that, upon formal introduction of this proposed Ordinance, which shall be by way of a motion duly seconded and without any further vote, the City Clerk shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the City Clerk and shall post at City Hall, to the official City website, to the City-maintained e-mail LISTSERV, and on the City cable channel, and if time permits, in any City newsletter, the proposed ordinance or a fair summary thereof together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council.

The public hearing, hereby set for 7:30 P.M. on the 23rd day of October, 2018, shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard.

After the hearing, the Council may adopt the proposed ordinance with or without amendments or reject it. This Ordinance shall become effective on February 5, 2019 provided that, as soon as practicable after adoption, the City Clerk shall post a fair summary of

the Ordinance and notice of its adoption at City Hall, to the official City website, to the City-maintained e-mail LISTSERV, on the City cable channel, and in any City newsletter.

If any section, subsection, provision, sentence, clause, phrase or word of this Ordinance is for any reason held to be illegal or otherwise invalid by any court of competent jurisdiction, such invalidity shall be severable, and shall not affect or impair any remaining section, subsection, provision, sentence, clause, phrase or word included within this Ordinance, it being the intent of the City that the remainder of the Ordinance shall be and shall remain in full force and effect, valid and enforceable.

INTRODUCED by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 9th day of October, 2018.

ADOPTED by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 15th day of January 2019.

EFFECTIVE the 5th day of February, 2019.

ATTEST:

CITY OF COLLEGE PARK

By: Janeen S. Miller
Janeen S. Miller, CMC, City Clerk

By: Patrick L. Wojahn
Patrick L. Wojahn, Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Suellen M. Ferguson
Suellen M. Ferguson, City Attorney