

ORDINANCE
OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK,
AMENDING CITY CODE CHAPTER 172, "STREETS AND SIDEWALKS"
ARTICLE II, "WIRELESS TELECOMMUNICATIONS FACILITIES IN
PUBLIC RIGHTS-OF-WAY" BY REPEALING AND RE-ENACTING §172-7,
"SCOPE", §172-8 "DEFINITIONS", §172-9 "GENERAL STANDARDS FOR
WIRELESS TELECOMMUNICATIONS FACILITIES IN THE RIGHTS-OF-
WAY", § 172-10 "APPLICATION SUBMISSION REQUIREMENTS",
AND AMENDING CHAPTER 110, "FEES AND PENALTIES", §110-1, "FEES AND
INTERESTS", TO ADD A DEFINITION, ALLOW THE CITY TO HOLD A PUBLIC
HEARING WITH RESPECT TO THE PROPOSED INSTALLATION OF
WIRELESS FACILITIES, SET ADDITIONAL STANDARDS FOR INSTALLATION,
SET STANDARDS FOR IDENTIFICATION AND MAINTENANCE, PREVENT
SPOOLING OR COILING OF CABLES ON POLES, REQUIRE ADDITIONAL
INFORMATION TO BE SUBMITTED AS PART OF THE APPLICATION, SET A
CONSIDERATION DEADLINE FOR APPLICATIONS NOT OTHERWISE SET BY
FEDERAL LAW AND ADD A FEE PROVISION

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 have adopted Chapter 172, "Streets and Sidewalks" Article II, "Wireless Telecommunications Facilities in Public Rights-of-Way" to regulate placement of small wireless telecommunications facilities in City rights of way; and

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

WHEREAS, the Mayor and Council determined that it is in the public interest to revise Chapter 172, “Streets and Sidewalks” Article II, “Wireless Telecommunications Facilities in Public Rights-of-Way” that is consistent with federal and state law.

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of College Park, Maryland that Chapter 172, “Streets and Sidewalks” Article II, §172-7, “Scope”, be and it is hereby repealed, re-enacted and amended to read as follows:

§172-7 SCOPE.

A. In general. A SMALL WIRELESS FACILITY MAY BE LOCATED IN CITY RIGHTS-OF-WAY SUBJECT TO THE PROVISIONS OF THIS ARTICLE. 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. * * * *

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 City from applying its generally applicable health, safety, and welfare regulations when granting consent for a small [eeH] WIRELESS facility or wireless support structure in the City's right of way.

D. Public use.* * * *

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, §172-8, “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. – T.* * * *

U. WIRELESS SUPPORT STRUCTURE. A POLE, SUCH AS A MONOPOLE, EITHER GUYED OR SELF-SUPPORTING, STREET LIGHT POLE, TRAFFIC SIGNAL POLE, OR UTILITY POLE CAPABLE OF SUPPORTING A SMALL WIRELESS TELECOMMUNICATIONS FACILITY.

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, §172-9, “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. - B. * * * *

C. Standards. Wireless telecommunications facilities AND WIRELESS SUPPORT STRUCTURES shall be installed and modified, AND THE USE OF A PUBLIC RIGHT-OF-WAY OR THE ATTACHMENT OF WIRELESS FACILITIES TO PUBLIC ASSETS BY A WIRELESS PROVIDER SHALL BE ACCOMPLISHED, 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, OBSTRUCT OR HINDER TRAVEL OR PUBLIC SAFETY ON THE RIGHT OF WAY OR THE LEGAL USE OF THE RIGHT-OF-WAY OR PUBLIC ASSETS BY OTHERS, 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.
 - (5) UNLESS OTHERWISE APPROVED BY THE CITY, ANY TELECOMMUNICATIONS FACILITY MAY BE LOCATED NO CLOSER THAN: (I) TWO (2) FEET FROM ANY CURB, SIDEWALK, OR OTHER IMPROVEMENT WITHIN THE RIGHTS-OF-WAY; AND (II) FIVE (5) FEET FROM ANY DRIVEWAY APRON, AND BE OTHERWISE LOCATED TO AVOID INTERFERENCE WITH PEDESTRIAN AND MOTORIST SIGHTLINES AND USE.
 - (6) SMALL WIRELESS FACILITIES SHALL BE INSTALLED AT LEAST EIGHT (8) FEET ABOVE THE GROUND. IF A SMALL WIRELESS FACILITY ATTACHMENT IS PROJECTING TOWARD THE STREET, FOR THE SAFETY AND PROTECTION OF THE PUBLIC AND VEHICULAR TRAFFIC, THE CITY MAY REQUIRE THE ATTACHMENT TO BE INSTALLED NO LESS THAN SIXTEEN (16) FEET ABOVE THE GROUND.
- 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. TO REDUCE CLUTTER AND DETER VANDALISM, EXCESS

FIBER OPTIC OR COAXIAL CABLES FOR SMALL WIRELESS FACILITIES SHALL NOT BE SPOOLED, COILED OR OTHERWISE STORED ON THE POLE EXCEPT WITHIN THE APPROVED ENCLOSURE SUCH AS A CAGE OR CABINET

- (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 a 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) No wireless telecommunications facility is permitted in any local historic district without the approval of the Prince George’s County Historic Preservation Commission.
- (11) ALL WIRELESS TELECOMMUNICATIONS FACILITIES, WIRELESS SUPPORT STRUCTURES AND WIRELESS INFRASTRUCTURE SHALL BE APPROPRIATELY LABELED WITH IDENTIFICATION AND CONTACT INFORMATION, AND SHALL BE PROPERLY MAINTAINED AND KEPT FREE OF GRAFFITI.

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 repealed, re-enacted and amended to read as follows:

§ 172-10 APPLICATION SUBMISSION REQUIREMENTS AND FINAL INSPECTION.

A. * * * *

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; A PRE-CONSTRUCTION SURVEY; A PROPOSED SCHEDULE FOR COMPLETION, CERTIFIED BY A LICENSED PROFESSIONAL ENGINEER; A CERTIFICATION BY A RADIO FREQUENCY ENGINEER THAT THE TELECOMMUNICATIONS FACILITY WILL COMPLY WITH THE RADIOFREQUENCY RADIATION EMISSION STANDARDS ADOPTED BY THE FEDERAL COMMUNICATIONS COMMISSION; 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) – (6) * * * *

- (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 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; A STRUCTURAL REPORT PERFORMED BY A DULY LICENSED ENGINEER EVIDENCING THAT THE POLE, TOWER OR SUPPORT STRUCTURE CAN ADEQUATELY SUPPORT THE COLLOCATION (OR THAT THE POLE, TOWER, OR SUPPORT STRUCTURE WILL BE MODIFIED TO MEET STRUCTURAL REQUIREMENTS) IN ACCORDANCE WITH APPLICABLE CODES;
- a. Payment of any required fees.
 - b. Before a permit is issued, concurrent agreement to any required

franchise, ACCESS or license agreement must be provided.

- (8) Fees. 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 incur.
- (9) PUBLIC HEARING. THE CITY MAY ELECT TO PROVIDE PUBLIC NOTICE OF AN APPLICATION AND HOLD A PUBLIC HEARING PRIOR TO THE APPROVAL OF AN APPLICATION. IF THE CITY ELECTS TO HOLD A PUBLIC HEARING ON AN APPLICATION, THE APPLICANT SHALL BE REPRESENTED AT THE PUBLIC HEARING AND BE AVAILABLE TO ANSWER INQUIRIES ABOUT THE APPLICATION.
- (10) OPERATION DATE. AS PART OF THE PERMIT PROCESS, THE CITY MAY REQUIRE A WIRELESS FACILITY TO BE FULLY OPERATIONAL WITHIN A SPECIFIED PERIOD AFTER THE DATE THE LAST OR FINAL PERMIT IS ISSUED, UNLESS THE TOWN AND THE APPLICANT AGREE TO EXTEND THE PERIOD.
- (11) * * * *
- (12) 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. IN THE ABSENCE OF FEDERAL LAW OR REGULATION, AN APPLICATION THAT IS DEEMED COMPLETE BY THE CITY SHALL BE APPROVED OR DISAPPROVED WITHIN 180 DAYS AFTER THE RECEIPT OF THE COMPLETE APPLICATION.

(13) – (14) * * * *

Section 5.

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 , ACTUAL COST TO REVIEW APPLICATIONS, IF IN EXCESS OF SET FEES.

Access fee - \$270 per small wireless facility per year

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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 26th day of March, 2019, 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 April 16, 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 12th day of March 2019.

ADOPTED by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 26th day of March 2019.

EFFECTIVE the 16th day of April, 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