



Ordinance 19-10
Chapter 100: Streets and Sidewalks
The Code of the City of New Carrollton

Effective: January 11, 2019

AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF NEW CARROLLTON, AMENDING CITY CODE CHAPTER 100, "STREETS AND SIDEWALKS" TO RENAME THE CHAPTER "STREETS, SIDEWALKS, PUBLIC PROPERTY AND RIGHTS-OF-WAY", TO DIVIDE THE CHAPTER INTO TWO ARTICLES, WITH THE EXISTING PROVISIONS OF CHAPTER 100 BECOMING ARTICLE I, "GENERAL PROVISIONS" AND ADDING ARTICLE II, "WIRELESS TELECOMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY" TO PROVIDE FOR CERTAIN STANDARDS AND REGULATIONS RELATING TO THE LOCATION OF SMALL WIRELESS TELECOMMUNICATIONS TOWERS, ANTENNAE, AND OTHER STRUCTURES WITHIN THE CITY'S PUBLIC RIGHTS-OF-WAY OR ON CITY PROPERTY, CONSISTENT WITH FEDERAL AND STATE LAW

WHEREAS, §5-202 of the Local Government Article of the Annotated Code of Maryland provides that the City Council of the City of New Carrollton has 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, City Code, Chapter 100 "Streets and Sidewalks" authorizes the City to regulate the construction of new streets, control its rights of way and make provision for construction in the rights of way; and

WHEREAS, the Mayor and City 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; and

WHEREAS, pursuant to City Charter, Sec. C-10.B, the City Council of New Carrollton may, by a four-fifths vote, declare any proposed ordinance to be an emergency ordinance, which shall become effective on the date specified in the ordinance; and

WHEREAS, given a recent FCC Order regarding wireless telecommunications facilities commonly being referred to as small cells that is due to go into effect on January

14, 2019, the City Council desires to make this Ordinance an Emergency Ordinance for the purpose of introducing it on December 19, 2018, conducting a public hearing on it on January 2, 2019, adopting it at a special legislative session on January 2, 2019 and making it effective on January 11, 2019, less than 20 days after its adoption.

Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the City Council of New Carrollton that Chapter 100, “Streets and Sidewalks” be and hereby is repealed and re-enacted with amendments to rename the Chapter and divide the Chapter into Articles I and II to read as follows:

Chapter 100: Streets, [~~and~~] Sidewalks, **PUBLIC PROPERTY AND RIGHTS-OF-WAY**

ARTICLE I. GENERAL PROVISIONS

- § 100-1 Purpose.
- § 100-2 Permit requirements.
- § 100-3 Inspection of work.
- § 100-4 Permit fees and bonds.
- § 100-5 Authority to close public streets.
- § 100-6 Storage of construction materials; warning devices.
- § 100-7 Deposit of mud and debris; notification of violation; failure to comply.
- § 100-8 Deposit of refuse and litter.
- § 100-9 Damage to streets and sidewalks.
- § 100-10 Interfering with or damaging public property.
- § 100-11 Obstructions.
- § 100-12 Responsibilities of property owners and tenants.
- § 100-13 Violations and penalties.

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

- § 100-14 **SCOPE.**
- § 100-15 **DEFINITIONS.**
- § 100-16 **GENERAL STANDARDS FOR WIRELESS TELECOMMUNICATIONS
FACILITIES IN THE RIGHTS-OF-WAY.**
- § 100-17 **APPLICATION SUBMISSION REQUIREMENTS.**
- § 100-18 **TERMINATION OF PERMIT/BREACH.**

**§ 100-19 INFRASTRUCTURE OWNED OR CONTROLLED BY THE CITY.
§ 100-20 FEES AND PENALTIES.**

Section 2. BE IT FURTHER ORDAINED AND ENACTED by the City Council of New Carrollton that Chapter 100 “Streets and Sidewalks”, Article II Wireless Telecommunications Facilities in Public Rights-of-way, be and is hereby enacted to read as follows:

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

§100-14 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, 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.

(5) A MICRO WIRELESS FACILITY STRUNG BETWEEN TWO UTILITY POLES AS DEFINED IN §100-15 AND PROVIDED FURTHER THAT THE INSTALLATION DOES NOT REQUIRE 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.

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.

§100-15 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. BASE STATION: THE TERM BASE STATION SHALL HAVE THE SAME MEANING AS IN 47 C.F.R. SECTION 1.40001.**
- D. 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.**
- E. 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.**

F. 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.

G. 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:

(1) 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

(2) EACH ANTENNA (EXCLUDING ASSOCIATED ANTENNA EQUIPMENT) IS NO MORE THAN THREE CUBIC FEET IN VOLUME; AND

(3) ALL ANTENNA EQUIPMENT ASSOCIATED WITH THE FACILITY (EXCLUDING ANTENNAS) ARE CUMULATIVELY NO MORE THAN 28 CUBIC FEET IN VOLUME; AND

(4) THE FACILITY DOES NOT REQUIRE ANTENNA STRUCTURE REGISTRATION;

(5) THE FACILITY DOES NOT RESULT IN HUMAN EXPOSURE TO RADIOFREQUENCY RADIATION IN EXCESS OF THE APPLICABLE SAFETY STANDARDS SPECIFIED BY FEDERAL LAW

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

I. 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.

J. 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.

K. 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.

- L. WIRELESS SERVICE PROVIDER. AN ENTITY THAT PROVIDES WIRELESS SERVICES TO END USERS.
- M. WIRELESS INFRASTRUCTURE PROVIDER: A PERSON THAT OWNS, CONTROLS, OPERATES OR MANAGES A WIRELESS TELECOMMUNICATION FACILITY OR PORTION THEREOF WITHIN THE RIGHT-OF-WAY.
- N. WIRELESS REGULATIONS: THOSE REGULATIONS ADOPTED TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE.
- O. 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.

§100-16 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 CITY 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

BOLDFACED CAPS: Indicate matter added to existing law.

Asterisks * * *: Indicate matter remaining unchanged in existing law but not set forth in Ordinance

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, 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) ANTENNAE LOCATED AT THE TOP OF SUPPORT STRUCTURES
SHALL BE INCORPORATED INTO THE STRUCTURE, OR
PLACED WITHIN SHROUDS OF A SIZE SUCH THAT THE
ANTENNAE APPEAR TO BE PART OF THE SUPPORT
STRUCTURE;**
- (2) ANTENNAE 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 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) NOT WIRELESS TELECOMMUNICATIONS FACILITY IS PERMITTED IN ANY LOCAL HISTORIC DISTRICT WITHOUT THE APPROVAL OF THE PRINCE GEORGE'S COUNTY HISTORIC PRESERVATION COMMISSION.

§ 100-17 APPLICATION SUBMISSION REQUIREMENTS.

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. 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.
- (5) 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.

(6) 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.

(7) PAYMENT OF ANY REQUIRED FEES.

(8) 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 INCUR, 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.

§100-18 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.

§100-19. "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 3. BE IT FURTHER ENACTED AND ORDAINED by the City Council of New Carrollton, that 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.


Section 4. BE IT FURTHER ENACTED AND ORDAINED by the City Council of New Carrollton, that this Ordinance shall become effective on January 11, 2019.

INTRODUCED by the City Council of New Carrollton at a regular meeting on the 19th day of December, 2018.

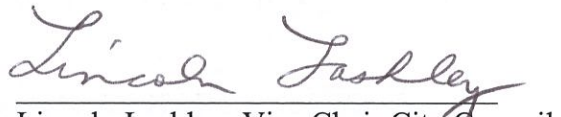
ADOPTED by the City Council of New Carrollton, at a special legislative session on the 2nd day of January, 2019, after having conducted a public hearing on this Ordinance on Wednesday, January 2, 2019, at which all who wished to speak on the Ordinance were heard.

EFFECTIVE the 11th day of January, 2019.

Attest:

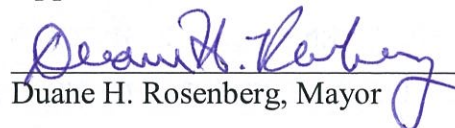

Douglass A. Barber, CMC
City Clerk

City of New Carrollton


Lincoln Lashley, Vice Chair City Council

Date: January 2, 2019

Approved:


Duane H. Rosenberg, Mayor

Date: January 2, 2019