



Ordinance 19-14, Amended
Chapter 100: Streets and Sidewalks
Public Property and Rights-of-Way

The Code of the City of New Carrollton

Effective: April 9, 2019

AN ORDINANCE OF THE CITY COUNCIL OF NEW CARROLLTON, AMENDING CITY CODE CHAPTER 100 "STREETS, SIDEWALKS, PUBLIC PROPERTY AND RIGHTS-OF-WAY," ARTICLE II "WIRE-LESS TELECOMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY," §100-14 "SCOPE" TO CLARIFY THE SCOPE OF ARTICLE II, §100-15 "DEFINITIONS" TO ADD VARIOUS DEFINITIONS AND AMEND THE DEFINITION OF WIRELESS TELECOMMUNICATIONS FACILITY, §100-146 "GENERAL STANDARDS FOR WIRE-LESS TELECOMMUNICATIONS FACILITIES IN THE RIGHTS-OF-WAY" REGARDING STANDARDS AND WAIVERS, AND TO ADD A SUBSECTION "FINAL INSPECTION", AND ADDING TO CITY CODE, CHAPTER 100, ARTICLE II, §100-20 "INSURANCE", §100-21 "RIGHT-OF-WAY REPAIR", §100-23 "FACILITIES NO LONGER NEEDED" AND §100-24 "SURETY BONDS"

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, Sidewalks, Public Property and Rights-of-Way" 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 enacted Ordinance 19-10 enacting City Code, Chapter 100 "Streets, Sidewalks, Public Property and Rights-of-Way," Article II "Wireless Telecommunications Facilities in Public Rights-of-Way"; and

WHEREAS, since the adoption of City Code, Chapter 100, Article II, it has come to the attention of the City Council that additional provisions are necessary to fully protect the

City's rights-of-way and that City Code, Chapter 100, Article II should be amended accordingly.

Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the City Council of New Carrollton that Chapter 100, "Streets, Sidewalks, Public Property and Rights-of-way", Article II "Wireless Telecommunications Facilities in Public Rights-of-way," shall be and hereby is 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, **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; AND/OR

(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[;].

BOLDFACED CAPS: Indicate matter added to existing law.

[Boldfaced Brackets]: Indicate matter deleted from existing law.

Asterisks * * *:

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- (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 article.
- (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 §100-15 and provided further that the installation does not require replacement of the strand, or excavation, modification or replacement of the utility poles.

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- 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 CELL FACILITY OR WIRELESS SUPPORT STRUCTURE IN THE CITY'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.

§100-15 Definitions.

Terms used in this Article shall have the following meanings:

ANTENNA

AN APPARATUS DESIGNED TO EMIT RADIO FREQUENCY (RF) AND OPERATE FROM A FIXED LOCATION TO PROVIDE WIRELESS SERVICES.

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,

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WHEN COLLOCATED ON A STRUCTURE, IS MOUNTED OR INSTALLED AT THE SAME TIME AS SUCH ANTENNA.

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 CITY. THE TERM INCLUDES THE REGULATIONS OF THE FEDERAL COMMUNICATIONS COMMISSION AND THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, AS WELL AS ANY LOCAL STANDARDS OR REGULATIONS GOVERNING THE USE OF RIGHTS-OF-WAY.

Applicant

A person filing an application for placement or modification of a wireless telecommunications facility in the rights-of-way.

* * *

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.

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COLLOCATE

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

MAKE-READY WORK

WORK THAT AN AUTHORITY REASONABLY DETERMINES TO BE REQUIRED TO ACCOMMODATE A WIRELESS INFRASTRUCTURE PROVIDER'S INSTALLATION UNDER THIS ARTICLE 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.

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.

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Wireless Service Provider. An entity that provides wireless services to end users.

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.**

§100-16 General Standards for Wireless Telecommunications Facilities in the Rights-of-Way.

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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;

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- (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] **LEGAL** uses of the public rights of way **OR PUBLIC ASSETS BY OTHERS**, 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 **THE** 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:

* * *

- (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.

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[(10) No wireless telecommunications facility is permitted in any local historic

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district without the approval of the Prince George's County Historic Preservation Commission.]

§ 100-17 Application Submission Requirements.

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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; **A PRECONSTRUCTION SURVEY; A PROPOSED SCHEDULE FOR COMPLETION, CERTIFIED BY A LICENSED PROFESSIONAL ENGINEER; A CERTIFICATION BY A RADIOFREQUENCY ENGINEER THAT THE TELECOMMUNICATIONS FACILITY WILL COMPLY WITH THE RADIOFREQUENCY RADIATION EMISSION STANDARDS ADOPTED BY THE FEDERAL COMMUNICATIONS COMMISSION;** 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

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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.

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- (6) A copy of any pole or structure attachment agreement must be provided, as well as **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 TOGETHER WITH** sufficient information to determine that the installation can be supported by and does not exceed the tolerances of the pole or structure, **WHICH SHALL INCLUDE BUT NOT BE LIMITED TO 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.**

(7) Payment of any required fees.

(8) Before a permit is issued, A 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 the City in reviewing the application, including costs incurred in retaining outside consultants. The applicant shall also pay an access fee. Fees shall be reviewed

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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. 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 HEARING AND BE AVAILABLE TO ANSWER INQUIRIES ABOUT THE APPLICATION.~~

~~E.~~ D. Waivers. Requests for waivers from any requirement of this Article shall be made in writing to the City [manager] **ADMINISTRATIVE OFFICER** 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.}F.~~ 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.

G. F. 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

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ISSUED, UNLESS THE CITY AND THE APPLICANT AGREE TO EXTEND THE PERIOD.

~~F.~~**H.G.** Rejection for incompleteness. Notices of incompleteness shall be provided in conformity with state, 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.

I. H. FINAL INSPECTION. UPON COMPLETION OF THE APPROVED WORK, THE APPLICANT MUST FILE A STATEMENT OF THE PROFESSIONAL OPINION OF AN INDEPENDENT, QUALIFIED ENGINEER LICENSED IN THE STATE OF MARYLAND THAT INDICATES THAT THE INSTALLATION, BASED UPON THEIR ACTUAL INSPECTIONS, IN THEIR PROFESSIONAL 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.

§100-18 Termination of permit/breach.

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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 A support structure owned by THE 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.

* * *

§100-20 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

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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

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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.

§100-21 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.

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§100-22 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**

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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 (1) IS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, WELFARE, OR CITY PROPERTY, OR (2) 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.

§100-23 FACILITIES NO LONGER NEEDED.

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- 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.

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[Boldfaced Brackets]: Indicate matter deleted from existing law.
 Asterisks * * *: Indicate matter remaining unchanged in existing law but not set forth in Ordinance
~~Interlineation:~~ Indicates matter deleted from the Ordinance after its introduction, but prior to adoption.

UNDERLINED
BOLDFACED CAPS: Indicate matter added to the Ordinance after its introduction, but prior to adoption.

§100-24 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.**

§100-25 MISCELLANEOUS.

IN THE ABSENCE OF FEDERAL LAW OR REGULATION, AN APPLICATION THAT IS DEEMED COMPLETE BY AN AUTHORITY SHALL BE APPROVED OR DISAPPROVED WITHIN 180 DAYS AFTER THE RECEIPT OF THE COMPLETE APPLICATION.

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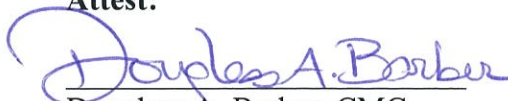
Section 3. BE IT FURTHER ENACTED AND ORDAINED by the City Council of New Carrollton, that if any section, subsection, provision, sentence, clause, phrase or word of this Ordinance is for any reason held to be illegal or otherwise invalid by any court of competent jurisdiction, such invalidity shall be 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.

INTRODUCED by the City Council of New Carrollton at a regular meeting on the 20th day of February, 2019.


ADOPTED by the City Council of New Carrollton, at a regular meeting on the 20th day of March, 2019, after having conducted a public hearing on this Ordinance on Wednesday, March 20, 2019, at which all who wished to speak on the Ordinance were heard.

EFFECTIVE the 9th day of April, 2019.

Attest:



Douglass A. Barber, CMC
City Clerk

City of New Carrollton


Lincoln Lashley, Vice Chair City Council

Date: MARCH 20, 2019

Approved:


Duane H. Rosenberg, Mayor

Date: MARCH 20, 2019

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