

Regulation of Small Cell Facilities in the
Town Rights-of-Way
Sponsored by: Councilmember Wells

AMENDED EMERGENCY LEGISLATIVE RESOLUTION 19-O-01

AN EMERGENCY ORDINANCE TO AMEND CHAPTER 8, "PUBLIC WAYS" TO DIVIDE THE CHAPTER INTO ARTICLE I, "GENERAL PROVISIONS" AND ARTICLE II, "WIRELESS TELECOMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY", TO AMEND SECTION 8-107, "PENALTY", TO RESERVE SECTION 8-108 AND SECTION 8-109, AND TO INCLUDE SECTIONS 8-101 THROUGH 8-109 IN ARTICLE I; TO ENACT ARTICLE II, SECTION 8-110, "SCOPE", SECTION 8-111 "DEFINITIONS", SECTION 8-112 "GENERAL STANDARDS FOR WIRELESS TELECOMMUNICATIONS FACILITIES IN THE RIGHTS-OF-WAY", SECTION 8-113 "APPLICATION SUBMISSION REQUIREMENTS", SECTION 8-114 "TERMINATION OF PERMIT/BREACH"; SECTION 8-115, "INFRASTRUCTURE OWNED OR CONTROLLED BY THE TOWN", SECTION 8-116, "INSURANCE", SECTION 8-117, "MAKE-READY WORK", SECTION 8-118, "RIGHT-OF -WAY REPAIR", SECTION 8-119, "FACILITIES NO LONGER NEEDED", SECTION 8-120 "SURETY BONDS", SECTION 8-121, "FEES", AND SECTION 8-122, "VIOLATIONS, TO PROVIDE FOR CERTAIN STANDARDS AND REGULATIONS RELATING TO THE LOCATION OF SMALL WIRELESS TELECOMMUNICATIONS TOWERS, ANTENNAS, AND OTHER STRUCTURES WITHIN THE TOWN'S PUBLIC RIGHTS-OF-WAY OR ON TOWN PROPERTY, CONSISTENT WITH FEDERAL AND STATE LAW, PROVIDE FOR A FINE, FEE AND ANNUAL CHARGE AND TO MAKE CONFORMING CHANGES.

WHEREAS, §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, authorizes the Mayor and Council to adopt such ordinances as they deem necessary to assure the good government of Town; to protect and preserve the rights, property and privileges of the Town; to preserve peace and good order; to secure persons and property from danger and destruction; and to protect the health, comfort and convenience of Town residents; and

WHEREAS, Section 402 of the Town Charter authorizes the Mayor and Council to adopt such ordinances as it deems necessary for the good government of the Town; for the protection

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[Brackets]

Asterisks * * *

CAPS

[Brackets]

: Indicate matter added to existing law.

: Indicate matter deleted from law.

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

: Indicate matter added in amendment

: Indicate matter deleted in amendment

and preservation of the Town's property, rights, and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger, or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of and visitors in the Town; and

WHEREAS, Section 802 of the Town Charter authorizes the Town to do whatever it deems necessary to establish, operate, control, reconstruct, repair, maintain or close the public ways of the Town; and

WHEREAS, Section 311 of the Town Charter authorizes the Council by a vote of four (4) or more members to authorize an emergency ordinance to take effect prior to twenty (20) days after adoption; and

WHEREAS, the Federal Communications Commission has required municipalities to adopt rules and regulations for the placement of small cell wireless facilities in public rights-of-way and said requirements are effective on January 14, 2019; and

WHEREAS, the Council has determined that it is in the public interest to adopt rules and regulations for the placement of small cell wireless facilities in the public rights-of-way under the Town's supervision and control.

CHAPTER 8

PUBLIC WAYS

Section 1: Be it resolved and ordained by the Mayor and Common Council of the Town of University Park that that Chapter 8, "Public Ways", be and it is hereby divided into Article I, "General Provisions", to include Section 8-101 through Section 8-109, and Article II, "Wireless Telecommunications Facilities In Public Rights-Of-Way", to include enacted Sections 8-110 through Section 8-121.

Section 2. Be it further resolved and ordained by the Mayor and Common Council

of the Town of University Park that Chapter 8 “Public Ways”, Article I, “General Provisions”, Section 8-107 “Penalty” be repealed, re-enacted and amended to read as follows:

Section 8-107 [Penalty] VIOLATION.

A failure to comply with the provisions of this [chapter] ARTICLE shall constitute an infraction. Any violation of Sections 8-101, 8-102, 8-103, 8-104 and/or 8-106 shall be subject to a penalty of \$200.00 PER OCCURRENCE.

Section 3. Be it further resolved and ordained by the Mayor and Common Council of the Town of University Park that Chapter 8 “Public Ways”, Article I, “General Provisions”, Section 8-108 and Section 109 be and hereby are reserved.

Section 4. Be it further resolved and ordained by the Mayor and Common Council of the Town of University Park that Chapter 8 “Public Ways”, Article II, “Wireless Telecommunications Facilities In Public Rights-Of-Way”, Section 8-110 “Scope” be enacted to read as follows:

SECTION 8-110 SCOPE.

A. IN GENERAL. UNLESS EXEMPTED, EVERY PERSON WHO DESIRES TO PLACE OR MODIFY A SMALL WIRELESS TELECOMMUNICATIONS FACILITY IN TOWN RIGHTS-OF-WAY MUST OBTAIN A WIRELESS PLACEMENT PERMIT AUTHORIZING THE PLACEMENT OR MODIFICATION, 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.

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 TOWN, THE USE OF WHICH IS SUBJECT TO A CONTRACT FOR USE OF THE FACILITY BETWEEN THE TOWN AND THE ENTITY OR ENTITIES THAT OWN OR

CONTROL THE WIRELESS TELECOMMUNICATIONS FACILITY;

- (2) THE PLACEMENT OR MODIFICATION OF WIRELESS FACILITIES BY THE TOWN 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 TOWN, 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 ~~§172-8~~ SECTION 8-111 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 A BUILDING PERMIT, THE FRANCHISES AND LICENSE

AGREEMENTS 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 TOWN'S USE AND USE BY THE PUBLIC.

Section 5. Be it further resolved and ordained by the Mayor and Common Council of the Town of University Park that Chapter 8 "Public Ways", Article II, "Wireless Telecommunications Facilities In Public Rights-Of-Way", Section 8-111 "Definitions" be enacted to read as follows:

SECTION 8-111 DEFINITIONS.

TERMS USED IN THIS ARTICLE SHALL HAVE THE FOLLOWING MEANINGS:

- A. ANTENNA: COMMUNICATIONS EQUIPMENT THAT TRANSMITS OR RECEIVES RADIO FREQUENCY SIGNALS IN THE PROVISION OF WIRELESS SERVICE.
- B. 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.
- C. 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 TOWN, INCLUDING ANY AMENDMENTS ADOPTED BY THE TOWN, OR OTHERWISE ARE APPLICABLE IN THE JURISDICTION.
- D. APPLICATION: A FORMAL REQUEST, INCLUDING ALL REQUIRED AND REQUESTED DOCUMENTATION AND INFORMATION SUBMITTED BY AN APPLICANT TO THE TOWN FOR A WIRELESS PLACEMENT PERMIT.
- E. APPLICANT: A PERSON FILING AN APPLICATION FOR PLACEMENT OR MODIFICATION OF A WIRELESS TELECOMMUNICATIONS FACILITY IN THE RIGHTS-OF-WAY.
- 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 TOWN 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 TOWN, AND WAS APPROVED BY THE TOWN AFTER SAID FINAL INSPECTION.

- H. COLLOCATION OR COLLOCATE: TO INSTALL, MOUNT, MAINTAIN, MODIFY, OPERATE, OR REPLACE WIRELESS FACILITIES ON A WIRELESS SUPPORT STRUCTURE.
- I. 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.
- J. RIGHTS-OF-WAY: THE TERM RIGHTS-OF-WAY INCLUDE ANY PORTION OF ANY STREET, ROAD OR PUBLIC WAY WHICH THE TOWN HAS THE RESPONSIBILITY TO MAINTAIN OR MANAGE.
- K. 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
 - (2) 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 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 BUT INCLUDING ANY PRE-EXISTING ASSOCIATED EQUIPMENT) 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.

- L. SUPPORT STRUCTURE: ANY STRUCTURE CAPABLE OF SUPPORTING A BASE STATION.
- M. 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.
- N. 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.
- O. 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.
- P. WIRELESS SERVICE PROVIDER. AN ENTITY THAT PROVIDES WIRELESS SERVICES TO END USERS.
- Q. WIRELESS INFRASTRUCTURE PROVIDER: A PERSON THAT OWNS, CONTROLS, OPERATES OR MANAGES A WIRELESS TELECOMMUNICATION FACILITY OR PORTION THEREOF WITHIN THE RIGHT-OF-WAY.
- R. WIRELESS REGULATIONS: THOSE REGULATIONS ADOPTED TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE.
- S. WIRELESS TELECOMMUNICATIONS FACILITY, OR FACILITY: EQUIPMENT AT A FIXED LOCATION THAT ENABLES WIRELESS COMMUNICATIONS BETWEEN USER EQUIPMENT AND A COMMUNICATIONS NETWORK INCLUDING WITHOUT LIMITATION RADIO TRANSCEIVERS, ANTENNAS, BASE STATION, COAXIAL OR FIBER-OPTIC CABLE, REGULAR AND BACKUP POWER SUPPLIES, AND COMPARABLE EQUIPMENT, REGARDLESS OF TECHNOLOGICAL CONFIGURATION. [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.]

Section 6. Be it further resolved and ordained by the Mayor and Common Council of the Town of University Park that Chapter 8 "Public Ways", Article II, "Wireless Telecommunications Facilities in Public Rights-Of-Way", Section 8-112 "General Standards For Wireless Telecommunications Facilities In The Rights-Of-Way" be enacted to read as follows:

**SECTION 8-112. 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 ARTICLE AND THE WIRELESS REGULATIONS APPROVED BY TOWN 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 TOWN 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 TOWN 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 TOWN 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 TOWN 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 TOWN, 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.

Section 7. Be it further resolved and ordained by the Mayor and Common Council of the Town of University Park that Chapter 8 "Public Ways", Article II, "Wireless Telecommunications Facilities In Public Rights-Of-Way", Section 8-113 "Application Submission Requirements" be enacted to read as follows:

SECTION 8-113 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 TOWN 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 TOWN 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 TOWN 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 TOWN 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 TOWN 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 TOWN MANAGER OR DESIGNEE. THE SAME MAY GRANT A REQUEST FOR WAIVER IF IT IS DEMONSTRATED THAT, NOTWITHSTANDING THE ISSUANCE OF A WAIVER, THE TOWN 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, 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 TOWN 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. UPON ANY REQUIRED INSPECTION, THE WORK MAY BE ACCEPTED AND A CERTIFICATE OF COMPLETION MAY BE ISSUED BY THE TOWN.

Section 8. Be it further resolved and ordained by the Mayor and Common Council of the Town of University Park that Chapter 8 "Public Ways", Article II, "Wireless Telecommunications Facilities In Public Rights-Of-Way", Section 8-114 "Termination of Permit/Breach" be enacted to read as follows:

SEC. 25-18. 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 TOWN, 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 TOWN. ALL COSTS INCURRED BY THE TOWN 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 TOWN, 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 TOWN. ALL COSTS INCURRED BY THE TOWN 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 TOWN, 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 TOWN); 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 TOWN, AND ANY APPEAL FROM THE TOWN'S DECISION IS EXHAUSTED.

Section 9. Be it further resolved and ordained by the Mayor and Common Council of the Town of University Park that Chapter 8 "Public Ways", Article II, "Wireless Telecommunications Facilities In Public Rights-Of-Way", Section 8-115 "Infrastructure Owned or Controlled by the Town" be enacted to read as follows:

SECTION 8-115 "INFRASTRUCTURE OWNED OR CONTROLLED BY THE TOWN."

THE TOWN MAY NEGOTIATE AGREEMENTS FOR USE OF TOWN 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 TOWN FOR USE OF THE STRUCTURES. THE PERSON SEEKING THE AGREEMENT SHALL ADDITIONALLY REIMBURSE THE TOWN FOR ALL COSTS THE TOWN INCURS IN CONNECTION WITH ITS REVIEW OF, AND ACTION UPON THE PERSON'S REQUEST FOR AN AGREEMENT.

Section 10. Be it further resolved and ordained by the Mayor and Common Council of the Town of University Park that Chapter 8 "Public Ways", Article II, "Wireless Telecommunications Facilities In Public Rights-Of-Way", Section 8-116 "Insurance" be enacted to read as follows:

SECTION 8-116 INSURANCE.

A. THE TOWN SHALL REQUIRE A WIRELESS PROVIDER TO INDEMNIFY AND

HOLD HARMLESS THE TOWN 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 PROVIDER WHO OWNS OR OPERATES SMALL WIRELESS FACILITIES OR POLES IN THE RIGHT-OF-WAY, ITS AGENTS, OFFICERS, DIRECTORS, REPRESENTATIVES, EMPLOYEES, AFFILIATE, OR SUBCONTRACTORS, OR THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS, OR REPRESENTATIVES.

B. DURING THE PERIOD IN WHICH THE FACILITIES OF A WIRELESS PROVIDER ARE LOCATED ON OR ATTACHED TO THE TOWN'S ASSETS OR RIGHTS-OF-WAY, THE TOWN MAY REQUIRE A WIRELESS PROVIDER TO:

(1) CARRY, AT THE WIRELESS 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 WITH LIMITS OF \$2,000,000 EACH OCCURRENCE/AGGREGATE;

(ii) WORKERS' COMPENSATION INSURANCE, AS REQUIRED BY LAW; AND

(iii) COMMERCIAL GENERAL LIABILITY INSURANCE WITH RESPECT TO ITS ACTIVITIES ON THE TOWN IMPROVEMENTS OR RIGHTS-OF-WAY WITH LIMITS OF \$2,000,000 EACH OCCURRENCE/AGGREGATE TO AFFORD PROTECTION WITH LIMITS NOT INCONSISTENT WITH ITS REQUIREMENTS OF OTHER USERS OF TOWN IMPROVEMENTS OR RIGHTS-OF-WAY, INCLUDING COVERAGE FOR BODILY INJURY AND PROPERTY DAMAGE; AND

(2) INCLUDE THE TOWN AS AN ADDITIONAL INSURED ON THE COMMERCIAL GENERAL LIABILITY POLICY AND PROVIDE CERTIFICATION AND DOCUMENTATION OF INCLUSION OF THE TOWN IN A COMMERCIAL GENERAL LIABILITY POLICY AS REASONABLY REQUIRED BY THE TOWN.

Section 11. Be it further resolved and ordained by the Mayor and Common Council of the Town of University Park that Chapter 8 "Public Ways", Article II, "Wireless Telecommunications Facilities In Public Rights-Of-Way", Section 8-117 "Make-Ready Work" be enacted to read as follows:

SECTION 8-117 MAKE-READY WORK.

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

B. UPON COMPLETION OF THE MAKE-READY WORK PERFORMED BY AN TOWN

AT THE REQUEST OF A WIRELESS PROVIDER, THE WIRELESS PROVIDER SHALL REIMBURSE THE TOWN FOR THE TOWN'S ACTUAL AND DOCUMENTED COST OF THE MAKE-READY WORK.

Section 12. Be it further resolved and ordained by the Mayor and Common Council of the Town of University Park that Chapter 8 "Public Ways", Article II, "Wireless Telecommunications Facilities In Public Rights-Of-Way", Section 8-118 "Right-of-Way Repair" be enacted to read as follows:

SECTION 8-118 RIGHT-OF -WAY REPAIR.

- A. WIRELESS PROVIDER SHALL BE REQUIRED TO PROMPTLY 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 PROVIDER, AND RETURN THE RIGHT-OF-WAY TO THE RIGHT-OF-WAY'S CONDITION PRIOR TO THE DAMAGES CAUSED BY THE WIRELESS PROVIDER.
- B. THE WIRELESS PROVIDER SHALL REMOVE AND RELOCATE THE PERMITTED SMALL CELL FACILITY AND/OR WIRELESS SUPPORT STRUCTURE AT THE WIRELESS PROVIDER'S SOLE EXPENSE TO ACCOMMODATE CONSTRUCTION OF A PUBLIC IMPROVEMENT PROJECT BY THE TOWN. IF THE WIRELESS PROVIDER FAILS TO REMOVE OR RELOCATE THE SMALL CELL FACILITY AND/OR WIRELESS SUPPORT STRUCTURE OR PORTION THEREOF AS REQUESTED BY THE TOWN WITHIN 120 DAYS OF THE TOWN'S NOTICE, THEN THE TOWN SHALL BE ENTITLED TO REMOVE THE SMALL CELL FACILITY AND/OR WIRELESS SUPPORT STRUCTURE, OR PORTION THEREOF AT THE WIRELESS PROVIDER'S SOLE COST AND EXPENSE, WITHOUT FURTHER NOTICE TO THE WIRELESS PROVIDER. THE WIRELESS PROVIDER SHALL, WITHIN 30 DAYS FOLLOWING ISSUANCE OF INVOICE FOR THE SAME, REIMBURSE THE TOWN 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. REMOVAL REQUIRED BY TOWN FOR SAFETY AND IMMINENT DANGER REASONS.

(1) THE WIRELESS PROVIDER SHALL, 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 TOWN IF THE TOWN 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 TOWN PROPERTY, OR (B) THE WIRELESS PROVIDER FAILS TO OBTAIN ALL APPLICABLE LICENSES, PERMITS, AND CERTIFICATIONS REQUIRED BY LAW FOR ITS SMALL CELL FACILITY AND/OR WIRELESS SUPPORT STRUCTURE.

(2) IF THE TOWN REASONABLY DETERMINES THAT THERE IS IMMINENT DANGER TO THE PUBLIC, THEN THE TOWN MAY IMMEDIATELY DISCONNECT, REMOVE, OR RELOCATE THE APPLICABLE SMALL CELL FACILITY AND/OR WIRELESS SUPPORT STRUCTURE AT THE WIRELESS PROVIDER'S SOLE COST AND EXPENSE.

Section 13. Be it further resolved and ordained by the Mayor and Common Council of the Town of University Park that Chapter 8 "Public Ways", Article II, "Wireless Telecommunications Facilities In Public Rights-Of-Way", Section 8-119 "Facilities No Longer Needed" be enacted to read as follows:

SECTION 8-119 FACILITIES NO LONGER NEEDED.

- A. A WIRELESS PROVIDER SHALL PROMPTLY NOTIFY THE TOWN OF A DECISION TO REMOVE FROM SERVICE A WIRELESS FACILITY LOCATED ON PUBLIC RIGHT-OF-WAY.
- B. A WIRELESS 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 PROVIDER.
- C. IF AN TOWN CONCLUDES THAT A WIRELESS FACILITY HAS BEEN ABANDONED IN PLACE, THE TOWN MAY REMOVE THE WIRELESS FACILITY AND INVOICE THE WIRELESS PROVIDER FOR THE ACTUAL AND DOCUMENTED COST INCURRED BY THE TOWN 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 PROVIDER SHALL PAY ALL FEES AND CHARGES DUE THE TOWN, REGARDLESS OF WHETHER A WIRELESS FACILITY IS OPERATIONAL.

Section 14. Be it further resolved and ordained by the Mayor and Common Council of the Town of University Park that Chapter 8 "Public Ways", Article II, "Wireless Telecommunications Facilities In Public Rights-Of-Way", Section 8-120 "Surety Bonds" be enacted to read as follows:

SECTION 8-120 SURETY BONDS.

- A. THE TOWN MAY REQUIRE A SURETY BONDING FOR WIRELESS 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 TOWN REQUIRES TO BE REMOVED TO PROTECT PUBLIC HEALTH, SAFETY, OR WELFARE, AND RESTORE THE RIGHT-OF-WAY; AND
- (2) RECOUP RATES OR FEES THAT HAVE NOT BEEN PAID BY A WIRELESS PROVIDER, SUBJECT TO 30 DAYS PRIOR WRITTEN NOTICE TO THE WIRELESS PROVIDER AND THE OPPORTUNITY TO PAY THE RATES OR FEES OUTSTANDING.

Section 15. Be it further resolved and ordained by the Mayor and Common Council of the Town of University Park that Chapter 8 "Public Ways", Article II, "Wireless Telecommunications Facilities In Public Rights-Of-Way", Section 8-121 "Fees" be enacted to read as follows:

SECTION 8-121 FEES.

THE FOLLOWING FEES SHALL BE PAYABLE AT THE TIME OF APPLICATION: FOR WIRELESS COMMUNICATIONS FACILITIES AND RELATED OVERHEAD AND UNDERGROUND WIRING, CABLE, HOSES, PIPES AND SIMILAR FACILITIES

- | | |
|---|--------------------------------|
| A. UP TO FIVE | \$500.00 |
| B. EACH ADDITIONAL | \$100.00 |
| C. EACH NEW POLE | \$1,000.00 |
| D. ANNUAL ACCESS FEE | \$270.00 PER WIRELESS FACILITY |
| E. ACTUAL COST TO REVIEW APPLICATIONS, IF IN EXCESS OF SET FEES | |

Section 16. Be it further resolved and ordained by the Mayor and Common Council of the Town of University Park that Chapter 8 "Public Ways", Article II, "Wireless Telecommunications Facilities In Public Rights-Of-Way", Section 8-122 "Violations" be enacted to read as follows:

SECTION 8-122 VIOLATIONS.

A FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ARTICLE SHALL CONSTITUTE AN INFRACTION. ANY VIOLATION OF SECTIONS SHALL BE SUBJECT TO A PENALTY OF \$200.00. EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE OCCURRENCE.

Section 17: Be it further resolved that this resolution and ordinance shall become effective immediately upon enactment by the Mayor and Common Council of University Park.

Section 18: Be it further resolved 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 Town that the remainder of the Ordinance shall be and shall remain in full force and effect, valid and enforceable.

Section 19: Be it further resolved that a complete and exact copy of this Ordinance shall be posted on the entrance door of the Town Building of University Park, Maryland, for a period of not less than ten (10) days, and a fair summary of this Ordinance shall be published at least once in a newspaper having general circulation in the community.

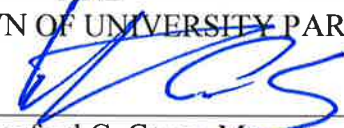
APPROVED AND EFFECTIVE this 14th day of January, 2019.

ATTEST:



Suellen M. Ferguson, Town Attorney

MAYOR AND COMMON COUNCIL
TOWN OF UNIVERSITY PARK

By: 

Lenford C. Carey, Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



Suellen M. Ferguson, Town Attorney