

**CITY OF HYATTSVILLE
ORDINANCE 2019-01
EMERGENCY ORDINANCE**

An Ordinance whereby the City of Hyattsville amends Chapter 105 to the City of Hyattsville Code in order to regulate the installation and construction of wireless facilities and supporting structures.

WHEREAS, the United States Government, via the Federal Communications Commission, has taken action that undermines the authority of the City of Hyattsville to regulate the installation, appearance, and location of wireless facilities and supporting structures if the City does not have certain regulatory and/or legislative authority in place by certain dates; and

WHEREAS, Local Government Article § 5-202(1), (2) & (5) of the Maryland Code grant to municipalities the power to adopt ordinances to assure the good government of the municipality, to protect and preserve the municipality’s rights, property and privileges, and to protect the health, comfort, and convenience of the residents of the municipality; and

WHEREAS, § C3-1 of Article III of the City Charter grants to the City Council the power to pass all such ordinances, resolutions and laws not contrary to the Constitution and laws of the State of Maryland or this Charter as it may deem necessary for the good government of the City in order to promote health, safety, comfort, convenience, welfare and happiness of the residents of the City and visitors thereto and sojourners therein; and

WHEREAS, Articles VII, VIII and IX of the City’s Charter and Chapter 105 of the City Code, the City has near absolute authority to regulate construction, installation of improvements, or modification of any structure in, on, over, and under, the City’s rights of way, streets and sidewalks; and

WHEREAS, the City deems it to be necessary and appropriate to provide certain standards and regulations relating to the location, placement, design, construction and maintenance of telecommunications towers, antennas and other structures within the City’s public rights of ways, and providing for the enforcement of said standards and regulations, consistent with federal and state law limitations on that authority;

WHEREAS, pursuant to §C2-9 of the Charter the Mayor and Council have authority to enact emergency legislation by the affirmative vote of a majority of the members of the Council.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hyattsville in regular session assembled that Chapter 105 of the City Code is hereby amended and renumbered as follows:

Chapter 105

STREETS AND SIDEWALKS

1 § 105-1. Sidewalk Maintenance.

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3 ~~§ 105-45. Violations and penalties. Application for Permit.~~

4 ~~§ 105-46. Requirements and findings.~~

5 ~~§ 105-47. Exceptions.~~

6 ~~§ 105-48. Violations and penalties.~~

7

8

ARTICLE VII

9

Wireless Facilities and Supporting Structures

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12 § 105-45. Application for Permit.

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14 A. The installation of wireless facilities and support structures in a City right-of-way shall
15 require a permit under this chapter. No permit shall be issued with respect to the installation of
16 wireless facilities or support structures in, on or over any City street, sidewalk, or right-of-way
17 unless and until the permit applicant and the City have negotiated and executed a franchise or
18 right-of-way use agreement setting forth the terms and conditions, including fair compensation to
19 the City, for applicants' use of City right-of-way, and where applicable, lease payments for the use
20 of any city-owned poles or facilities.

21

22 B. In addition to the other information required by this article, an application for such a permit
23 shall submit the following information pertaining to particular sites or a proposed deployment:

24

25 1. A technical description of the proposed facilities, along with detailed diagrams
26 accurately depicting all proposed facilities and support structures;

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28 2. A detailed deployment plan describing construction planned for the 12-month
29 period following the issuance of the permit, and a description of the completed deployment;

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31 3. An engineering certification relating to the proposed construction signed by a
32 professional engineer licensed in Maryland;

33

34 4. A statement describing the applicant's intentions with respect to collocation;

35

36 5. A statement demonstrating the permittee's duty to comply with applicable safety
37 standards for the proposed activities in the City rights-of-way;

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39 6. In the case of a proposed attachment to a city-owned facility located in the City
40 rights-of-way, an executed attachment agreement with the city;

41

42 7. In the case of a proposed attachment to an investor-owned utility pole in the rights-
43 of-way, an executed attachment agreement with the utility pole owner; and

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45 8. Such other information as the City Administrator may require.

1
2 C. The applicant shall pay a processing fee to the City at the time of application to install
3 wireless facilities in a public right of-way is made, in addition to any other fees required by this
4 chapter or by this code generally. The amount of the fee shall be set by the City Administrator.
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6 **§ 105-46. Requirements and findings.**
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8 A. Wireless facilities and support structures proposed to be located on streets, sidewalks or
9 other rights-of-way in the City shall meet the following requirements:
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11 1. Absent a special finding by the City Administrator:
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13 a. Wireless facilities may only be installed on existing utility poles or light poles;
14 and
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16 b. Only entities authorized by the Maryland Public Service Commission pursuant
17 to MD. Code Ann., Public Utilities Art., §§ 5-410, 8-103, as amended from time to
18 time, may erect new poles in the City's right-of-way, and only then for the purpose
19 of supporting telephone lines to provide telephone service.
20

21 2. Any new pole including a replacement pole, installed in City rights-of-way to
22 support wireless facilities shall:
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24 a. Comply with all structural and safety standards specified by the City
25 Administrator;
26

27 b. Not obstruct pedestrian or vehicular traffic flow or sight lines;
28

29 c. Not exceed the average height of the existing street light poles or utility
30 poles within the area extending one thousand (1,000) feet in any direction of the
31 proposed structure;
32

33 d. Shall be designed to accommodate the collocation of at least three (3)
34 different wireless providers' antennas and related equipment;
35

36 e. If metal, be treated or painted with non-reflective paint, and in a way to
37 conform to or blend into the surroundings; and
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39 f. Comply with such other requirements and conditions as the City
40 Administrator may conclude are appropriate to impose.
41

42 3. Any wireless facilities installed on a pole or any other structure in the rights-of-way
43 shall:
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45 a. Have equipment box or boxes no greater in collective size than 17 cubic feet in
46 volume with no one side/dimension exceeding four and ¼ (4.25) feet;

1 b. Have panel antennas no greater than two (2) feet in height, and omni/dome
2 antennas no greater than four (4) feet in height and no wider than three (3) feet in
3 diameter;

4
5 c. Have no more than three (3) panel antennas per pole, and no more than one
6 omni/dome antennas per pole;

7
8 d. Have microwave dishes no greater than two (2) feet in diameter, with no more
9 than 3 microwave dishes per pole;

10
11 e. Be located and designed, including materials, color, and texture, so as to
12 minimize visual impact on surrounding properties and as seen from the streets and
13 sidewalks; and

14
15 f. Comply with such other requirements and conditions as the City Administrator
16 may conclude are appropriate to impose.

17
18 B. Wireless facilities and support structures proposed to be located on streets, sidewalks or
19 other rights-of-way in the City may be permitted upon a finding by the City Administrator that:

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21 1. The application complies with all standards and requirements set forth in § 105-2A;

22
23 2. The location selected in the application is not in an area where there is an over-
24 concentration of poles or other facilities in, on or over the streets, sidewalks or other rights-
25 of-way;

26
27 3. The location selected, and scale and appearance of the wireless facilities and
28 support structures to be installed, are consisted with the general character of the
29 neighborhood;

30
31 4. The applicant has agreed to and provided adequate insurance, bonding and
32 indemnification to protect the City and its residents from injury or liability relating to or
33 arising from the proposed facilities and structures;

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35 5. The applicant has entered into the franchise or right-of-way use agreement with the
36 City required by § 105-1A; and

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38 6. The wireless facilities, if located in a residential area, do not generate any noise.

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40 **§ 105-47. Exceptions.**

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42 No permit shall be issued with respect to any City street, sidewalk, or right-of-way where, in the
43 judgment of the City Administrator, sufficient capacity no longer exists for additional facilities to
44 be placed in the proposed location without jeopardizing the physical integrity of utilities or other
45 facilities already present in the proposed location, or the safe and efficient vehicular or pedestrian
46 use of the street, sidewalk, or right-of-way.

ARTICLE VIII

Penalty Provisions

~~§ 105-45~~ § 105-48. Violations and penalties.

AND BE IT FURTHER ORDAINED that if any provision of this Ordinance or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect the other provisions or any other applications of the Ordinance which can be given effect without the invalid provision or applications, and to this end, all the provisions of this Ordinance are hereby declared to be severable;

AND BE IT FURTHER ORDAINED, that this Ordinance is an Emergency Ordinance and shall be effective immediately;

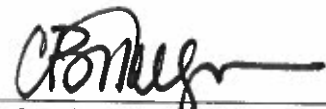
AND BE IT FURTHER ORDAINED, that a fair summary of this ordinance shall forthwith be published twice in a newspaper having general circulation in the City and otherwise be made available to the public.

INTRODUCED by the City Council of the City of Hyattsville, Maryland, at a regular public meeting on **January 22, 2019**.

ADOPTED by the City Council of the City of Hyattsville, Maryland, at a regular public meeting on **January 22, 2019**.

Adopted: 1/22/19

Attest: 
Laura Reams, City Clerk


Candace B. Hollingsworth, Mayor

29

30 { } indicate deletions

31 Underline indicates additions

32 Asterisks * * * Indicate matter retained in existing law but omitted herein

33 **Effective Date: January 22, 2019**