

CITY OF HYATTSVILLE ADMINISTRATIVE REGULATION 2022-_____
CHAPTER 105 of the City Code
Wireless Facilities and Support Structures
Effective Date: _____

1. City’s Authority over Rights of Way, City Streets, and Sidewalks

- A. Pursuant to the City’s Charter and Code, including, but not limited to, Articles VII and 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.
- B. Pursuant to Articles VII and VII of Chapter 105, of the City of Hyattsville Code, the City Administrator is authorized to adopt regulations related to Wireless Facilities and Support Structures.
- C. These regulations are promulgated by the City of Hyattsville Department of Public Works pursuant to City Ordinance 2022-_____ (the “Ordinance”), which amended the City of Hyattsville Code, Chapter 105, Wireless and Supporting Structures, to regulate the installation of certain telecommunications facilities and equipment in the City’s rights of way.

2. Definitions

The following terms have the meanings given to them in Section 105-45 of the City Code: “antenna,” “applicant,” “collocation,” “communications facility,” “communications support structure,” “Director,” “FCC,” “permittee,” “pole,” and “RF.”

3. Applicants for a Permit

- A. An application for a permit to construct or install a communications facility or communications support structure shall be filed with the Director and shall contain all of the information required by Section 3 for a facility or a structure of the type proposed in the application.
- B. An application shall not be accepted by the Director for consideration unless and until the required fee(s) are paid.
- C. An application shall include, at a minimum, the following:
 - 1. Documentation establishing that the construction and installation complies or will comply with Code Sections 105–46, 105-47 and Chapter 112, and all applicable requirements of the Prince George’s County Zoning Ordinance, including, if the proposed facility or structure is a conditional use, a copy of the County conditional use permit or order (unless this requirement has been waived by the Director);

2. A technical description of the proposed communications facility or communications support structure, including its purpose and intent, a written description identifying the geographic service area for the subject installation and why the installation is necessary to provide adequate telecommunications coverage, photographs of the communications equipment to be installed, a description of the noise to be emitted by the proposed facilities, and an accurate visual impact analysis with photo simulations, a list of all existing equipment (including but not limited to communications facilities) mounted on the communications support structure, and a site plan drawing (i) indicating the proposed installation, right of way, name of street (if any) and width of right of way, utility pole identification number if the proposed installation involves attachment to or replacement of an existing utility pole, abutting lots, North point, and scale, and (ii) providing the location for all features, structures and trees within 50 feet of the site, including Pavement plan, curb and gutter, sidewalks, curb cuts and driveways and dimensions;
3. A certificate from an independent licensed professional engineer that the proposed construction or installation is structurally sound;
4. A detailed deployment plan describing all communications facilities or communications support structures planned to be used or installed by the applicant for the 24-month period following the permit application anywhere in the City or within 500 feet of City limits, including on private property and Maryland State and County rights of way, and a description of the completed deployment;
5. A completed RF exposure guidelines checklist and proof of all applicable license or other approvals required by the FCC;
6. If a communications facility is proposed to be attached to a private-owned utility pole, the title, date and term of the executed attachment agreement with the utility pole owner and a hard copy thereof or a URL for the online location where a copy of the agreement can be found;
7. A statement committing the applicant to comply with applicable safety standards for the proposed activities in the City right-of-way;
8. Identity and contact information for the entity performing the work in the right-of-way;
9. A specific identification of any state or federal statute or regulation imposing a shot clock or similar timing constraint that applicant claims applies to the City's consideration of the application; and
10. Such other information as the Director may require.

D. If an applicant seeks an exception pertaining to any provision of Chapters 105 and 112 of the Code or these regulations, including, but not limited to, exceptions from findings that would otherwise justify denial, it must request such exception at the time of application. The request must identify the specific provision(s) from which the exception is sought and the basis of the request. The applicant shall have the burden of proving that application of the provision would violate, or would deprive applicant of its rights under, federal or state law, using the evidentiary standards required by the law at issue. The City shall have the right to hire an independent consultant, at the applicant's expense, to evaluate the issues raised by the exception request and shall have the right to submit rebuttal evidence to refute the applicant's claim. Any request for an exception after an application has been found complete under Section 3 shall be treated as a new application.

- E. A request for exception under Subsection (D) may be granted by the Director if the Director finds that:
 - 1. Denial of the facility as proposed would violate federal law or state law; or
 - 2. The cited provision(s), as applied to applicant, would deprive applicant of its rights under federal or state law; or
 - 3. Strict application of the cited provision(s) would be contrary to the public interest because the harm to the public of strict application would be greater than the harm caused by granting an exception.

4. Process for Review of Applications.

A. The Director shall post notice of any application filed pursuant to Section 3 upon receipt to the City's website or to a publicly available database of small cell wireless facility applications and shall promptly determine whether it is complete.

B. If the Director determines that an application is incomplete, he/she shall inform the applicant in writing of the missing information and shall cease consideration of the application until such time as all of the missing information is submitted by the applicant.

C. In cases where the plans and specifications submitted to the Director do not meet the minimum construction standards as provided in the City Code, or if the Director concludes that unusual conditions require a special type of construction, the application plans and specifications, with necessary revisions noted appropriately thereon, shall be returned to the applicant for revision and resubmission.

D. When an applicant resubmits an application with missing or revised information, the Director shall determine within 10 days whether the resubmitted application is complete.

E. When the Director determines that an application is complete:

- 1. The Director shall:
 - a. notify the applicant and post notice of the application and the application itself on the City's web site and make a hard copy of the application materials available for public inspection;
 - b. schedule a community meeting as soon as reasonable, but no more than 30 days after the determination that the application is complete, to provide the public with information about the proposed installation, answer questions, receive information, and respond to concerns;
 - c. receive and consider any written comments and documentary evidence submitted by the public; and
 - d. seek and consider input from City of Hyattsville boards, commissions and committees with applicable subject matter jurisdiction, including but not limited to the Hyattsville Environment Committee.

2. The applicant shall:
 - a. within 7 days of its receipt of notice from the Director that its application is complete, inform the public about the proposed installation and the date, time, and location of the community meeting by posting a notice {weatherproofed, at least 8.5 inches by 11 inches, and attached to the pole or other support structure at a height of 5 feet or less} at the proposed site, and providing written notice to property owners, residents and businesses with property lines located within 500 feet of the proposed installation; and
 - b. send a representative to attend the public meeting.

F. The Director may schedule a single community meeting for the consideration of multiple applications.

G. Applications shall be reviewed in the order in which they are received, except that an incomplete application shall be considered received on the date that it is determined to be complete after resubmission. In addition, the Director shall treat the changed application as a new application for purposes of any time limits for permit decisions under applicable law.

H. In the event that three or more substantially similar applications from one applicant are received or pending at the same time, the Director may reasonably modify the process set forth in Subsections E-G in order to attempt to meet the requirements of Subsection I.

I. The Director shall endeavor to make a decision on each application for a communications facility within 60 days of the filing of the completed application and on each application for a communications support structure within 90 days of the filing of the completed application. These are aspirational goals and failure to meet the goal in the case of a specific application shall have no legal effect under the Code.

5. Requirements for Approval of Applications.

A. In deciding whether to approve an application, the Director shall review and take into account the information in the application, and any public comments and other information gathered or submitted pursuant to Section 4.

B. An application for a communications facility or communications support structure proposed to be located on City rights-of-way may only be permitted upon a finding by the Director that:

1. The proposed structure or facility, if constructed or installed in conformance with the application, will comply with (i) the general construction specification requirements in Code Section 105-44, (ii) all applicable requirements of Chapter

105, Article VII, (iii) all applicable requirements of the Prince George's County Zoning Ordinance, and (iv) all applicable Sections these regulations.

2. Under applicable safety standards, the communications support structure can support the proposed communications facility together with any other previously attached or permitted facilities and equipment.
3. The applicant has submitted the required proof of insurance, and any performance bond required by the Director.
4. The Montgomery County Telecommunications Facility Coordinating Group Tower Coordinator has recommended the proposed installation if the installation is subject to review by the Montgomery County Transmission Facility Coordinating Group.
5. The location is not in an area where there is an overconcentration of structures or facilities in, on or over the right-of-way, as determined by the Director in the Director's reasonable discretion and judgment.

C. A replacement pole proposed to be located on City rights of way may only be permitted upon a finding by the Director that:

1. All of the requirements of Subsection B are met;
2. Additional communications facilities are necessary in the location of the proposed pole to provide adequate telecommunications coverage; and
3. Existing poles sufficiently close to the proposed location do not have the capacity for the necessary communications facilities.

D. A new pole proposed to be located on City rights-of-way may only be permitted upon a finding by the Director that:

1. All of the requirements of Subsection C are met, and
2. The applicant has provided proof of its (or its agent's) authority to erect the pole, including, if applicable, how the proposed pole meets the requirements of Md. Public Services and Utilities Code Ann. 8-103(a)(2), as amended.

E. The Director may require modifications to a proposed construction or installation project before granting a permit and may impose conditions when granting a permit.

F. The Director may waive minor variances from the requirements of the City Code or these regulations if the variance does not jeopardize the public health, safety, or welfare.

G. The Director may require the permittee to pay for and provide a performance bond, which shall be in effect until the facilities are fully and completely removed and the site reasonably returned to its original condition, to cover permittee's obligations under these conditions of approval and the City Code. The bond coverage shall include, but not be limited to, removal of the facility, and maintenance obligations. The amount of the performance bond shall be set by the

Director in an amount reasonably related to the obligations covered by the bond and shall be specified in the conditions of approval.

6. Aesthetic Requirements.

A. All communications facilities and communications support facilities shall be situated, screened, shrouded, or concealed to maximize public safety and to minimize visual and acoustic impact. At a minimum, a facility shall meet each of the following requirements that apply to its facility type:

1. Antennas, antenna mounts and equipment cabinets shall have a color and finish that minimize visual impact to the surrounding neighborhood, taking into consideration historic area designations and existing color and design schemes for City facilities, commercial districts, and other areas with aesthetic guidelines.
2. Any equipment other than an antenna, antenna mount or wiring shall be placed inside an equipment cabinet.
3. No equipment cabinet nor any equipment located outside of an equipment cabinet may have a metallic or silver finish.
4. An applicant's equipment cabinet shall be no larger than 15 cubic feet and, unless otherwise required by state or federal law, be installed a minimum of 15 feet above ground or at ground level. The total volume of all equipment cabinets associated with a structure shall be no larger than 30 cubic feet.
5. Any ground level equipment cabinet shall be located at least 2 feet from the roadway curb and 4 feet from any driveway apron, shall not impinge on any sidewalk, shall not obstruct pedestrian, bicycle or vehicle traffic flow or sight lines or obstruct parking access, and shall comply with any other placement requirements established by the Director.
6. Each antenna shall be demonstrated to be the least visible antenna possible to accomplish the coverage objectives, be mounted parallel to the pole or other support structure, and be flush mounted to the extent reasonably feasible.
7. Antenna mounts shall be designed so as not to preclude possible future collocation by the same or other applicants, and must be the same color or pattern as the pole or support structure.
8. Any wiring from the ground to a communications facility shall be concealed in the pole or other support facility, or, if the pole or other support facility cannot accommodate internal wiring, the exterior wiring must be enclosed in a shielded conduit.

B. The Director may (i) promulgate additional aesthetic guidelines or regulations governing screening, shrouding, or concealing specific types of equipment or facilities, or (ii) grant pre-approval of specific models, designs, or paint schemes, in order to reduce the visual and auditory impacts of such facilities.

7. Fees

A. Every applicant shall pay a permit application fee upon submission of the application. Such fees shall not be refundable.

B. The Director may require payment of a supplemental application fee if the Director determines that changes to an application after filing will materially increase the time or costs of the permit review.

C. The Director shall establish standard fee schedules that allow the City to recover the actual costs of application processing, administration, review, inspection, and certification of compliance of each completed construction or installation project, and, if permitted by applicable law, the market value of the use of the City right-of-way. These standard fees may be increased annually and on a per application basis if reasonably required to cover additional costs incurred in individual cases, such as when an application is unusually complex or involves new technology so that the City needs to consult outside experts as part of the review process.

D. Pending establishment of permanent fee schedules by the Director, the application fee for a permit shall be one thousand dollars (\$1,000.00). The Director may, but is not required to, establish a different fee on a case-by-case basis when an applicant submits multiple applications at the same time ("bundled applications"). If the bundled applications are essentially identical and the per application costs incurred by the City are likely in the judgement of the Director to be lower, the Director may set a lower total fee for the bundled applications. If the bundled applications are not identical and the per application costs incurred by the City are likely in the judgement of the Director to be higher because of a need for additional City or contractor resources, the Director may set a higher fee for the bundled applications.

E. Each permittee shall pay an annual right-of-way maintenance and administration fee and a right-of-way usage fee for each approved application for a communications facility and communications support facility. Each fee shall be payable initially within 15 days of the permit approval and annually thereafter on the anniversary date of the permit approval.

F. The right-of-way maintenance fee shall be payment for the cost of administering and maintaining the public right-of-way occupied by the permittee's facility. Pending establishment of the fee schedules by the Director, the annual fee shall be \$500 per permit, and it shall be payable annually on the anniversary date of the permit approval.

G. The right-of-way usage fee shall be equal to the market value of use of the public right-of-way occupied by the facility or support structure. Unless and until the authority of the City to charge market-based usage fees is clarified under applicable federal and state law, communications facilities and communications support structures shall be allowed to occupy City rights-of-way upon payment of the annual right-of-way maintenance fee. However, permittees of such facilities and support structures shall be liable for a usage fee equal to the market rent for the occupancy of

the City right-of-way retroactive to the date of installation plus interest accrued at the rate established for delinquent property taxes in Section 11-107 of the Courts and Judicial Proceedings Article of the Maryland Code, as amended.

H. The Director shall include in the right-of-way maintenance fee or in a separate inspection fee the costs incurred by the City in hiring an employee or retaining a consultant to perform testing to confirm that a permitted facility complies with the then-current FCC RF emission standards or any other applicable mandatory regulatory or operational standard. Tests shall be conducted upon commencement of operations at a permitted facility and annually between May 1 and June 30 thereafter. If an annual inspection fee is imposed, the cost to be charged shall be a pro rata percentage of the cost for testing of all permitted sites.

I. The Director, in consultation with the City Administrator, may waive or reduce any fees provided for in this Section and provide other benefits to the permittee (excluding any that would weaken health and safety protections) in exchange for public benefits to be provided by the permittee that may include, but are not limited to, the installation of communications facilities and support structures in underserved locations and the installation of connections to or discounted service for multi-family rental facilities.

J. Fees paid by any permittee whose permit has expired or become invalid shall not be credited against the fees required for a new permit of the permittee. Fees for expired and invalid permits shall not be returnable.

K. The City may establish license or lease payments in connection with any application for the installation of a communications facility on a communications support structure owned by the City, or located on City owned property, and may require other compensation as provided herein:

i. Rent. At minimum, a monthly rent shall be applied to all persons permitted to install communications facilities on any communications support structure owned by the City or a wireless support structure that is located on property owned by the City. Rents are intended to reflect the fair value of the use of said wireless support structures, leased or licensed, and may be in cash or in kind. However, the City may permit payment of an alternative amount for a temporary period while the validity of any rent is being challenged, provided that the City has adequate security that the full rent to which it may be entitled is or will be paid for the entire period within which any person will use a communications support structure that is owned by the City or located on property owned by the City, as set forth herein.

J. _____

8. Continuing Obligations of Permittees.

A. Within 30 days of installation, the City shall test the RF emissions from any new antenna and the cumulative RF emissions from all antennas on the same structure, for compliance with FCC standards. Results of RF emissions tests will be posted to the City's website. If the antenna exceeds the FCC standards or causes the antennas collocated on its support structure to exceed the FCC standards, the newly installed antenna must be removed by the permittee within five days at its own expense. In addition, if the Director determines there is good cause to believe that an approved facility, individually or as mounted with any collocated facilities, may emit RF emissions that are likely to exceed FCC standards, the Director may require the permittee to test the facility and submit within 10 days of the test a written report certified by a qualified independent RF emissions engineer, certifying that the facility is in compliance with such FCC standards.

B. Within 15 days after construction or installation is completed, the permittee shall certify to the Director that the constructed or installed facilities conform in all material aspects to the specifications in the permit and meet all applicable conditions of the permit approval. In the event that the permittee fails to provide such certification or that the facility at any time fails to meet all applicable conditions of approval, the City may revoke the permit or take other action permitted under the Code or these regulations.

C. Between June 1 and July 1 of each year, the permittee shall submit to the Director an affidavit certifying that the facility or support structure remains in use and covered by insurance and that the facility is the current industry standard facility of that type as required under the Code and these regulations.

D. The permittee shall submit and maintain current at all times basic contact, emergency contact, and site information required by Code Section 105-95. The permittee shall notify the City of any changes to this information within seven days of any change and any change to the emergency contact information shall be made to the notice on the communications facility or support structure within one day of the effective date of the change.

E. The permittee shall respond promptly, and in any event in within 2 hours, to emergencies relating to its communications facilities and communications support structures.

F. The permittee shall, at its sole expense, keep its communications facilities and communications support structures in a safe condition and in good and neat order and repair.

G. The permittee at all times shall fulfill all the requirements of Code Section 105-95.

**APPLICATION TO INSTALL A COMMUNICATION FACILITY OR
COMMUNICATION SUPPORT STRUCTURE IN THE RIGHT OF WAY
CITY OF HYATTSVILLE PUBLIC WORKS DEPARTMENT**

APPLICANT NAME

CONTACT PERSON NAME

APPLICANT STREET ADDRESS

CONTACT PERSON EMAIL

APPLICANT CITY, STATE, ZIP CODE

CONTACT PERSON PHONE

Carrier Name: _____

Carrier Site Name or ID: _____

Structure Owner: _____

Structure Owner contact info: _____
Email

_____ Cell phone

Utility Pole Identification Number: _____

Site Address: _____

Contractor performing the installation: _____
Company name

Contractor contact name

Email

Phone

TYPE OF INSTALLATION:

- Collocation on existing structure
- Installation on a replacement structure
- Installation on a new structure

An application is required for each support structure

I. The following items must be included for all types of installation:

I. SITE PLAN MAP

- a. Show location of installation site with street name, right of way width, identification of abutting lots, latitude & longitude designation, north point and scale
 - b. Site plan must note the following items (including dimensions) within 50 feet of the proposed installation site: curb and gutter, curb cuts, driveways, inlet structures, location and diameter of any trees.
 - c. If grade change is proposed, provide grading plan and profile
2. CERTIFICATION from an independent licensed professional engineer verifying that proposed installation is structurally sound.
3. STATEMENT committing to comply with applicable safety standards for the proposed activities within the City right of way.
4. TECHNICAL DESCRIPTION OF THE PROPOSED FACILITY OR SUPPORT STRUCTURE
- a. Purpose and intent
 - b. Written description of the intended service area and why this location is necessary to provide adequate telecommunications coverage
 - c. Photographs of the equipment to be installed and type of support structure
 - d. Description of the noise emitted by the proposed facilities, including anticipated decibel levels
 - e. A visual impact analysis of the installation area with photo simulation of the proposed installation
 - f. List of existing antennas mounted on support structure
 - g. Description of screening efforts to minimize visual impact of structure, including color and finish proposed for antennas, antenna mounts and equipment cabinets
 - h. Detail providing all dimensions of proposed facilities and equipment cabinets
5. Documentation that application was filed and recommended by the Prince George's County Telecommunications Transmission Facility Coordinating Committee, and, if required record of a Conditional Use Permit from Prince George's County.

6. PROOF OF INSURANCE
7. DEPLOYMENT PLAN FOR THE NEXT 24 MONTH PERIOD
 - a. Description of planned facilities anywhere in the City or within 500 feet of the City limits, including on private property, Maryland State Right of Way or County Right of Way
8. COMPLETED RF EXPOSURE GUIDELINES CHECKLIST and proof of all applicable licenses or approvals required by the FCC
9. COPY OF EXECUTED AGREEMENT (or URL) with pole owner verifying permission to use pole
10. Identification of State or Federal Statute or Regulation imposing a shot clock constraint that applicant believes applies to this application
11. If Applicant is seeking an exception to any provision of Chapter 105 or Chapter 112, provide written request including specific provision and basis of request and justification
12. APPLICATION FEE- \$ 1000.00, check payable to the City of Hyattsville

II. *The following additional information is required for replacement poles:*

1. Applicant must provide all items identified in Subsection I.
2. Written statement identifying why additional communication facilities are necessary in the location of the proposed pole to provide adequate coverage
3. Written statement documenting why existing poles sufficiently close to the proposed location do not have the capacity for the necessary communication facilities.

III. *The following additional information is required for new poles:*

1. Applicant must provide all items identified in Subsection I.
2. Provide proof of authority to erect pole. and how the proposed pole meets the requirements of Md. Public Service & Utility Code Ann. 8-103 (a)(2) as amended.

Permit Terms and Conditions:

City permits are non-transferable and automatically expire 6 months from the date of issuance by the Public Works Department.

Within 15 days after construction or installation is complete, the permittee shall certify to the Public Works Director that the installed facilities conform in all material aspects to the specifications in the application and meet all applicable conditions of the permit approval. If permitted fails to provide such certification or the facility at any time fails to meet all applicable conditions of approval, the City may revoke the permit or take other action.

The permittee shall submit and maintain current at all times, basic contact, emergency contact, and site information required by Section 105-95. The permittee shall notify the City of any changes to this information within 7 days of any change and within 1 day for changes to the emergency contact information

The permittee shall keep its communication facilities and communication support structures in safe condition and good and neat order and repair. The permittee shall respond within 2 hours, to emergencies related to its communications facilities and communication support structures.

This page to be completed by the City:

INITIAL APPLICATION RECEIVED:

Date received: ___/___/___ *City has 10 days to notify if incomplete

Determined Complete: () Yes () No Date determination was made: ___/___/___

If Yes, date applicant notified: ___/___/___ Website updated: ___/___/___

If No, date applicant notified: ___/___/___

RESUBMITTED APPLICATION

Resubmittal date received: //

Determined Complete: () Yes () No Date determination was made: ___/___/___

If Yes, date applicant notified: ___/___/___ Website updated: ___/___/___

If No, date applicant notified: ___/___/___

SECOND RESUBMITTED APPLICATION

Resubmittal date received: ___/___/___

Determined Complete: () Yes () No Date determination was made: ___/___/___

If Yes, date applicant notified: ___/___/___ Website updated: ___/___/___

If No, date applicant notified: ___/___/___

FOR COMPLETED APPLICATION:

Will City require supplemental application fee? If yes, Amount: \$ _____

Was application bundled with more than one other identical application? _____

Public Meeting Date: ___/___/___ Meeting location: _____

Anticipated decision date:

For communication facilities 60-day goal from receipt of completed application

For com. support structures, 90-day goal

COE Notified: _____ / _____ / _____

SITE EVALUATION COMMENTS:

Any conflict with:

other structures,

trees,

driveway aprons,

site lines,

parking access

other

Overconcentration of structures or facilities in area Potential modifications to proposed location?

Other conditions for approval?

Performance Bond recommended?

PERMIT ISSUED: ___/___/___

Website updated: ___/___/___

Required from Applicant

Within 15 days from permit issuance: ___/___/___

DUE

Applicant to pay ROW Maintenance and Administration Fee of \$_____ – date received:

___/___/___

Required from the City:

Within 30 days of installation:

DUE

Initial RF Test Results: _____

Website updated: ___/___/___

Annually May – June 30