

# Presentation of Proposed Administrative Regulations: Telecommunications Facilities and Equipment in City Rights- of-Way

City Council Work Session  
June 12, 2019



# Background

- **Montgomery County zoning codes govern where wireless facilities can be sited (setbacks)**
- **The City remains under County zoning rules, but we can add an additional layer of protection**
- **Takoma Park can establish a permitting process to set safety and aesthetic requirements**



# FCC Rules

- Federal law states that a local jurisdiction cannot prohibit deployment of small cell antenna
- The FCC has established regulations on what jurisdictions can charge; based on costs to jurisdiction (e.g. for permit review)
- The FCC also established a “shot clock” that limits the time a jurisdiction can take to review a permit application (60-90 days)



# Purpose of City Resolution and Ordinance

The regulation of wireless installation and maintenance in the public right-of-way is necessary to protect and preserve the aesthetics in the community, as well as the values of properties within the City, and to ensure that all wireless telecommunications facilities are installed using the least intrusive and safest means possible and that there is accessible wireless in the community.



# Purpose of City Ordinance



**Wireless telecommunications facilities shall be installed, modified, and maintained in a manner that:**

- minimizes risks to public health and safety
- minimizes the overuse and installation of poles or equipment cabinets in the public rights-of-way to reduce the intrusion of poles and equipment in right away
- maintains the integrity and character of the neighborhoods and corridors in which the facilities are located
- ensures that installations are subject to periodic review
- ensures that the city bears no risk or liability as a result of the installations, and that such use does not inconvenience the public or hinder government to manage right-of-way
- provides access to wireless technology in the Community
- ensures public and City government notification

# City Actions to Date



- ✓ **Joined coalition of other jurisdictions and organizations from across the country to challenge the FCC order.**
- ✓ **Passed a Resolution which details Council goals and intent of Ordinance (December 5, 2018).**
- ✓ **Passed an Ordinance associated with Resolution (January 9, 2019).**
- ✓ **Sent letter to County Executive, County Council, and the Planning Board raising concerns and request they revisit ZTA 18-02, specifically the siting of antenna near apartments. In addition, the letter requested that each entity work collaboratively with the City in the future on these issues, that we receive an update when the County will be taking up a ZTA for residential areas, and that someone from Takoma Park be appointed to the Transmission Facilities Coordination Group (Tower Commission).**
- ✓ **Public Works Director appointed to Tower Commission.**

# Considerations for Ordinance and Admin Regs



- Fees
  - Initial
  - Annual
- Placement and aesthetics
  - Protecting views
  - Visual aesthetics and audio
  - Appearance and size
  - Landscaping and screening
- Height limits
- Safety
- Tower profile requirements
- Repair, installation, and maintenance requirements
- Radio frequency emissions testing
- Application, review process, public notice and input
- Community benefits
- Tree ordinance

***Note: Setbacks, including proximity to schools, will be covered by County Code***

# Administrative Regulations Process

- Publication of Proposed Regulations – April 30, 2019
- Presentation and Public Hearing – Wednesday, June 12, 2019
- City Council Work Session Discussion – Wednesday, June 19, 2019
- Publication of Regulation and Notice of Final Action – July 2019 City Newsletter
- Development of application and process
- Effective Date – July 15, 2019

Public comments can be submitted online:

<https://takomapark.seamlessdocs.com/f/RegulationComment>





# Overview of Administrative Regulations: The Application



- **Application for permit must include:**

- Documentation that construction and installation complies with City and County requirements
- Technical description, justification for installation, photographs of equipment, visual impact analysis, plans for location for all features and structures w/in 50 feet of the site
- Certificate from an independent licensed professional engineering attesting that proposed construction or installation is structurally sound
- Detailed deployment plan
- Completed RF exposure guidelines checklist and proof of FCC approvals/licenses
- Statement committing applicant to comply with safety standards
- ID and contact info for entity performing the work
- Fees must be paid!

# Overview of Administrative Regulations:

## Application Review Process

- If incomplete or do not meet standards, application shall be returned for revision and resubmission; Director shall determine within 10 days after resubmission if complete
- If deemed complete, the Director shall:
  - Notify the applicant and post notice of the application and a copy of the application itself on the City's website
  - Schedule a community meeting, seek input from City Boards and Commissions with applicable subject matter jurisdiction, and receive written comments
- If deemed complete, the applicant shall:
  - Inform the public by posting notice at the proposed site, providing written notice to residents and businesses located within 500 feet
  - Send a representative to the public meeting



# Overview of Administrative Regulations:

## Requirements for Approval

- Proposed structure/facility must comply with City and County regulations and standards, including construction and safety standards
- Proof of authority, proof of insurance, documentation of compliance with federal RF emissions limitations, and any performance bond required by the Director
- Previously approved by the MC Telecommunications Facility Coordinating Group Tower Coordinator
- Location is not in an area where there is an overconcentration of structures or facilities, as determined by the Director



# Overview of Administrative Regulations:

## Aesthetic Requirements

- Structures/facilities must “be situated, screened, shrouded, or concealed to maximize public safety and minimize visual and acoustic impact”
- Color and finish must minimize visual impact (including taking into consideration historic area designations); no metallic or silver finishes
- Equipment other than antenna and wiring must be contained within equipment cabinet
- Cabinets must be less than 15 cubic feet in size and, if not on the ground, must be installed no lower than 10 feet above ground level; all cabinets associated with a structure must total less than 30 cubic feet
- Cabinets must be at least two feet from curb and four feet from driveway aprons; may not impinge on any sidewalk
- Antennas and wiring must be concealed or shielded



# Overview of Administrative Regulations: Fees

- Director shall establish standard fee schedule based on time and cost to review and permit applications; fees must be paid upon submission of application; Director may require supplemental fee if changes are required to application that increase time or cost to review
- Permittees must pay annual ROW maintenance and administration fee for each application, as well as a ROW usage fee that is equal to the market value of use of the public ROW
- Director may charge an inspection fee if the City hires an employee or retains a consultant to perform RF testing; testing may be conducted upon commencement of operations and shall be conducted annually between May 1 and June 30 thereafter



# Overview of Administrative Regulations:

## Continuing Obligations of Permittees

- Within 30 days of installation, the permittee 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
- 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
- Between June 1 and July 1 of each year, the permittee shall submit to the Director an affidavit certifying that the originally permitted facility or support structure remains in use and covered by insurance
- Permittee must provide up to date contact and emergency contact info and respond within two hours to emergencies
- Installations must be kept safe and well-maintained

