

CB-058-2019
CB-059-2019



Committee of the Whole Briefing



Presented By:

Tara H. Jackson, Deputy Chief Administrative Officer for Government Operations
Office of the County Executive

October 1, 2019



Angela D. Alsobrooks
County Executive

Federal Law

Local governments may not effectively prohibit telecommunications services, but do have limited authority to regulate subject to:

- Deadlines (“shot clocks”) for processing applications
 - 60 days for attachment to existing structure
 - 90 days for construction of new facilities
- Limits on one-time fees related to deployment
 - Includes TTFCC application fees and permit fees
 - Must be cost-based (can use “safe harbors” as alternative)
- Limits on regulations based on RF emissions
 - Regulations may not consider RF emissions as long as devices meet FCC standards
- Tests for regulating aesthetics, undergrounding and spacing

Existing County Law

- ✓ Limited to installation on private property subject to the zoning ordinance.
- ✓ Requires building permit subject to recommendation of the Telecommunications Transmission Facility Coordinating Committee (TTFCC).
- ✗ Does not allow for installation in the County right-of-way.

CB-058-2019: The Regulatory Framework

A Comprehensive Approach



LEGISLATION

AUTHORIZATION &
REGULATORY FRAMEWORK



DESIGN MANUAL

LOOK AND FEEL



REGULATIONS

PROCESS AND PROCEDURES

A Comprehensive Team

Department of Public Works

Department of Permitting, Inspections and Enforcement

Office of Law

Office of the County Executive

Maryland-National Capital Park and Planning Commission

Expert Legal and Technical Consultants

Stakeholders (Public, Industry, and Utility)

“Ground Rules”

Co-location

- Attachment to an existing structure unless the applicant can show that enforcing this requirement would violate applicable law.
- Otherwise,
 - Replacement pole with a streetlight, or
 - New pole or structure (in that order)

Location

- Not within 30 feet of a residential dwelling
- Not within 250 feet of an elementary or secondary school
- Not on any County owned and operated traffic signal
- Not within 150 feet of another small wireless facility
- Not within 15 feet of an existing tree
- Not attached to a decorative pole

“Ground Rules”

Height

- Existing Pole - Cannot extend pole by more than 10 feet
- New or Replacement Poles
 - Protected areas - Cannot exceed 30 feet
 - Everywhere else - Cannot exceed 50 feet or 10 feet greater than the tallest existing pole (whichever is higher)

RF Emissions

- Must be compliant with FCC standards
- Must be capable of immediate shutoff in the event of an emergency or for public works to be performed

Inspections

- Post-Installation Certification and Inspection
- Annual
- Other Periodic

Noise

- Must comply with the County's noise ordinance

Waivers

- May only be granted if enforcement of a requirement would violate another applicable law
- May only be granted to the minimum extent necessary to address the conflict
- *Possible Amendment: TTFCC to review and issue recommendation on waivers*

Application Process

Preservation of Existing Processes

- 1) Required notices to public, municipalities, council members, and civic associations
- 2) Briefing, if requested by noticed parties
- 3) Review and recommendation by TTFCC
- 4) Issuance of permit
 - Right-of-Way – New Small Wireless Permit
 - Private Property – Building Permit
 - For all permits
 - Must begin work within 60 days of issuance

Opening the Right-of-Way

Master License Agreement

- Uniform Master License Agreement (MLA) for access to the County right-of-way
- In addition to the overall “ground rules,” MLA will include additional terms that only apply to the right-of-way, including:
 - An aspirational SBE/MBE requirement
 - Heightened reporting and inspection requirements
 - Removal of inactive or abandoned facilities, or facilities that are otherwise impeding the County’s own use of the ROW

Look & Feel



Legislation establishes regulatory and zoning framework



Most details related to “look and feel” will be set out in Design Manual



Maintained by DPWT and DPIE



Will allow for flexible and nimble updates to keep pace with changing design technology



“Protected areas,” including areas with undergrounded utilities and historic districts, must have stealth designs

Fees

- **TTFCC Application Fees** - Creates a separate category of fees for small wireless facilities.
- **Permit Fees** - Will be calculated in the same manner as existing permit fees.
- **One Year Review** - Requires a report to Council in a year as to whether the fees are fairly and reasonably cost-based.



CB-059-2019: The Zoning Ordinance

Private
Property

Adds small wireless facilities to the
existing “public utility use” in Zoning
Ordinance



Requires:

Consent of property
owner

All utility approvals
and clearances

Necessary permit(s)

The Roadmap

Determine appropriate fee amounts	✓
Develop process for reviewing applications	✓
Determine conditions for access to County right-of-way	✓
Amend zoning ordinance	✓
Seek stakeholder (public, industry, and utility) input	Ongoing
Develop Design Manual	Ongoing
Develop administrative regulations	Ongoing

Possible Amendments

- Address overlap between “Minor Antenna” and “Micro-wireless” definitions
- Address conflict between co-location requirement and 150 foot distance setback requirement
- Add additional (7th) seat to TTFCC
- Involve TTFCC in waiver recommendation decision
- *Ongoing discussions with stakeholders about additional possible amendments*