

Introduced 4/3/17
Public Hearing 4/19/17
Council Action 5/1/17
Executive Action 5/5/17
Effective Date 7/5/17

County Council of Howard County, Maryland

2017 Legislative Session

Legislative Day No. 6

Bill No. 26 -2017

Introduced by: The Chairperson at the request of the County Executive

AN ACT requiring a permit for the installation of certain wireless facilities on public street lights; defining certain terms; amending certain definitions; requiring certain information in support of an application for a permit; requiring certain agreements; requiring that certain agreements include fair compensation; providing for the review of applications; authorizing certain fees; and generally related to public rights-of-way in Howard County.

Introduced and read first time April 3, 2017. Ordered posted and hearing scheduled.

By order Jessica Feldmark
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on April 19, 2017.

By order Jessica Feldmark
Jessica Feldmark, Administrator

This Bill was read the third time on May 1, 2017 and Passed , Passed with amendments , Failed .

By order Jessica Feldmark
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 3rd day of May, 2017 at 1 a.m/p.m.

By order Jessica Feldmark
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive May 5, 2017

Allan H. Kittleman
Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment

1 **Section 1. Be It Enacted by the County Council of Howard County, Maryland that the Howard**
2 **County Code is amended as follows:**

3
4 1. **By amending Title 18 "Public Works"**
5 **Subsection (a) and Subsection (c), both of Section 18.205 "Roads, bridges, and rights-of-**
6 **way – Obstructions, damage, and drainage".**

7
8 2. **By adding Title 18 "Public Works"**
9 **Section 18.206A. "Wireless Facilities on Public Street Lights".**

10
11 **Title 18. Public Works.**

12 **Subtitle 2. Roads.**

13
14 **Section 18.205. Roads, bridges, and rights-of-way--Obstructions, damage, and drainage.**

15 (a) **Definitions:**

16 (1) In this [[section and in section 18.206]] SECTION, SECTION 18.206 AND SECTION
17 18.206A, the following terms have the meanings indicated:

18 (2) **Department** means the Howard County Department of Public Works.

19 (3) **Director** means the Director of the Department.

20 (4) **Public property** means a County-owned or controlled road, road right-of-way, shoulder,
21 sidewalk, ditch line, bridge, culvert, curbing, drainage facility, utility easement, or any
22 appurtenances or signs associated with any of the above.

23 (5) (i) **Structure** means anything constructed, the use of which requires permanent or
24 temporary location on the ground or attached to something having a temporary or
25 permanent location on the ground.

26 (ii) **Structure** does not include:

27 a. A newspaper box, or a mailbox meeting the standards of the United States
28 Postal Service, provided that each is mounted on a post in conformance with
29 "A Guide for Erecting Mailboxes on Highways" by the American Association
30 of State Highway and Transportation Officials, Third Edition, dated 1994;

1 b. A utility pole or utility box WHICH ARE NOT A PART OF A WIRELESS FACILITY AS
2 DEFINED IN SECTION 18.206A OF THIS SUBTITLE; or

3 c. A sign permitted in a right-of-way under subtitle 5 "Signs" of title 3
4 "Buildings" of the Howard County Code.

5 (c) Structures on Public Property. A person may not install temporary or permanent structures
6 in, on, over, through, or across public property [[without]]:

7 (1) WITHOUT the permission of the Director; OR

8 (2) UNLESS THE PERSON HAS AUTHORITY TO INSTALL THE STRUCTURE WITHOUT PERMISSION
9 UNDER STATE LAW, OR UNDER A FRANCHISE OR LICENSE ISSUED BY THE COUNTY.

10
11 **SECTION 18.206A. WIRELESS FACILITIES ON PUBLIC STREET LIGHTS.**

12 (A) *APPLICATION FOR A PERMIT.* A PERMIT IS REQUIRED FOR THE INSTALLATION, OPERATION,
13 MAINTENANCE, AND REMOVAL OF WIRELESS FACILITIES ON A PUBLIC STREET LIGHT. A PERMIT
14 SHALL NOT BE ISSUED BY THE DIRECTOR UNLESS AND UNTIL AN AGREEMENT FOR USE OF PUBLIC
15 STREET LIGHTS SETTING FORTH THE TERMS AND CONDITIONS FOR THE INSTALLATION OF THE
16 WIRELESS FACILITIES HAS BEEN REACHED BETWEEN THE COUNTY AND THE APPLICANT, WHICH
17 ~~SHALL INCLUDE FAIR COMPENSATION TO THE COUNTY FOR APPLICANT'S USE OF THE PUBLIC~~
18 ~~STREET LIGHTS. AND WHICH AGREEMENT MAY INCLUDE THE ITEMS LISTED IN SUBSECTION (D) OF~~
19 THIS SECTION.

20 (B) *DEFINITIONS.* IN ADDITION TO THE TERMS PREVIOUSLY DEFINED IN THIS SUBTITLE, THE
21 FOLLOWING TERMS SHALL HAVE THE MEANINGS INDICATED:

22 (1) *PUBLIC RIGHT-OF-WAY* MEANS THE ROADS LISTED AS OWNED AND MAINTAINED BY THE
23 COUNTY IN THE "HOWARD COUNTY MASTER ROAD BOOK" AND WHICH ARE CLASSIFIED
24 AS ARTERIAL OR COLLECTOR.

25 (2) *PUBLIC STREET LIGHT* MEANS THE EXISTING STRUCTURE OWNED BY THE COUNTY,
26 PRIMARILY DESIGNED FOR LIGHTING A PUBLIC RIGHT-OF-WAY, INCLUDING THE SUPPORTING
27 POLE, LUMINAIRE, ARMS, LEASED ELECTRIC WIRES, FOUNDATIONS, INTERNAL DIVIDERS,
28 HAND HOLES, VAULTS, PEDESTALS, AND BASES. A PUBLIC STREET LIGHT DOES NOT
29 INCLUDE:

30 (I) A LIGHTING SYSTEM ATTACHED TO A UTILITY POLE, TRAFFIC SIGNAL POLE, BUILDING,
31 OR SIMILAR STRUCTURE; OR

1 (ii) ANY FACILITY THAT IS PRIVATELY OWNED.

2 ~~(3) WIRELESS FACILITY MEANS A FACILITY AT A FIXED LOCATION THAT WIRELESSLY CONNECTS~~
3 ~~TO MOBILE STATIONS AND IS USED TO PROVIDE PERSONAL WIRELESS SERVICES AS DEFINED~~
4 ~~AT 47 U.S.C. 332(c)(7). WIRELESS FACILITY INCLUDES:~~

5 (3) WIRELESS FACILITY.

6 (i) WIRELESS FACILITY MEANS A FACILITY THAT:

7 A. IS LICENSED OR AUTHORIZED BY THE FEDERAL COMMUNICATIONS COMMISSION;

8 B. IS AT A FIXED LOCATION; AND

9 C. ENABLES WIRELESS COMMUNICATIONS BETWEEN USER EQUIPMENT AND A
10 COMMUNICATIONS NETWORK.

11 (ii) A WIRELESS FACILITY INCLUDES:

12 A. EQUIPMENT ASSOCIATED WITH WIRELESS COMMUNICATIONS SERVICES SUCH AS
13 PRIVATE, BROADCAST, AND PUBLIC SAFETY SERVICES;

14 B. UNLICENSED WIRELESS SERVICES AND FIXED WIRELESS SERVICES SUCH AS
15 MICROWAVE BACKHAUL;

16 ~~(C)~~ C. ALL ELEMENTS OF THE FACILITY, INCLUDING INCLUDING, WITHOUT
17 LIMITATION, ANTENNAS, CABINETS, CABLES, WIRES, BACK-UP POWER SUPPLIES, AND
18 RADIO UNITS; AND

19 ~~D.~~ (H) FACILITIES IN, AT, OR NEAR THE WIRELESS FACILITY AND ASSOCIATED WITH
20 THE FACILITY'S OPERATIONS, INCLUDING ELECTRIC METERS AND ELECTRICAL
21 WIRING WHETHER OR NOT IRRESPECTIVE OF WHETHER THE METERS AND WIRING
22 ARE OWNED OR MAINTAINED BY THE SAME PERSON THAT OWNS OTHER PORTIONS OF
23 THE WIRELESS FACILITY.

24 (4) *WIRELESS PROVIDER* MEANS THE ENTITIES THAT ARE AUTHORIZED BY THE FEDERAL
25 COMMUNICATION COMMISSION TO PROVIDE PERSONAL WIRELESS SERVICES AS DEFINED AT
26 47 U.S.C. SECTION 332(c)(7).

27 (C) *INFORMATION REQUIRED.* THE COUNTY SHALL CREATE AN APPLICATION FORM THAT MAY
28 REQUIRE AN APPLICANT SHALL TO SUBMIT THE FOLLOWING INFORMATION IN THE REQUEST TO USE
29 THE PUBLIC STREET LIGHTS, AND SUCH OTHER INFORMATION AS THE COUNTY MAY
30 REQUEST IN CONNECTION WITH ITS REVIEW OF THE APPLICATION:

31 (1) A TECHNICAL DESCRIPTION OF THE PROPOSED WIRELESS FACILITIES INCLUDING DETAILED

1 SPECIFICATIONS AND DIAGRAMS ACCURATELY DEPICTING THE PROPOSED WIRELESS
2 FACILITIES, AND THE LOCATIONS OF THE PUBLIC STREET LIGHTS ON THE PUBLIC RIGHTS-
3 OF-WAY THE APPLICANT PROPOSES TO USE;

4 (2) A DETAILED DEPLOYMENT PLAN DESCRIBING CONSTRUCTION OF THE WIRELESS FACILITIES
5 PLANNED FOR THE 12-MONTH PERIOD FOLLOWING THE ISSUANCE OF THE PERMIT;

6 (3) ENGINEERING CERTIFICATIONS RELATING TO THE PROPOSED CONSTRUCTION;

7 (4) A STATEMENT DESCRIBING THE APPLICANT'S INTENTIONS WITH RESPECT TO COLLOCATION,
8 AND IF THE APPLICANT IS NOT A WIRELESS PROVIDER, THE IDENTITY OF THE WIRELESS
9 PROVIDER(S) USING THE PROPOSED WIRELESS FACILITIES;

10 (5) A STATEMENT DEMONSTRATING THE APPLICANT'S DUTY TO COMPLY WITH APPLICABLE
11 SAFETY STANDARDS FOR THE PROPOSED ACTIVITIES IN THE PUBLIC RIGHT-OF-WAY
12 INCLUDING EMERGENCY RESPONSE PLAN, SCHEDULE OF MAINTENANCE, OPERATION,
13 RELOCATION, AND REMOVAL OF THE WIRELESS FACILITIES AT APPLICANT'S SOLE COST; AND

14 (6) SUCH OTHER INFORMATION AS THE COUNTY MAY REQUIRE IN AN APPLICATION FORM;
15 FORM; AND

16 (7) SUCH OTHER INFORMATION AS THE COUNTY MAY REQUIRE IN ITS REVIEW OF THE
17 APPLICATION.

18 (D) AGREEMENT FOR USE OF PUBLIC STREET LIGHTS. AN AGREEMENT FOR USE OF PUBLIC STREET
19 LIGHTS SHALL INCLUDE TERMS AND CONDITIONS FOR THE INSTALLATION OF THE WIRELESS
20 FACILITIES AS AGREED UPON BY THE APPLICANT AND THE COUNTY, WHICH SHALL INCLUDE FAIR
21 COMPENSATION TO THE COUNTY FOR THE APPLICANT'S USE OF THE PUBLIC STREET LIGHTS AND
22 WHICH MAY ALSO INCLUDE:

23 (1) PROVISIONS THAT ALLOW FOR THE ROUTINE MAINTENANCE OF THE WIRELESS FACILITY;

24 (2) PROVISIONS THAT ALLOW FOR THE REPLACEMENT OF A WIRELESS FACILITY WITH ANOTHER
25 SMALL WIRELESS FACILITY THAT IS SUBSTANTIALLY SIMILAR OR SMALLER IN SIZE, WEIGHT,
26 AND HEIGHT;

27 (3) PROVISIONS THAT ALLOW FOR MULTIPLE WIRELESS FACILITIES;

28 (4) THE LENGTH OF TIME FOR WHICH AN APPLICATION MAY BE CONSIDERED; OR

29 (5) THE LENGTH OF TIME FOR WHICH A PERMIT WILL BE VALID.

30 ~~(D) DISCRETION OF DIRECTOR. A PERMIT SHALL NOT BE ISSUED WITH RESPECT TO ANY PUBLIC~~
31 ~~STREET LIGHT, WHERE, IN THE JUDGMENT OF THE DIRECTOR, SUFFICIENT CAPACITY NO LONGER~~

1 (E) DISCRETION OF DIRECTOR. THE DIRECTOR:

2 (1) MAY NOT ISSUE A PERMIT WHERE, IN THE JUDGMENT OF THE DIRECTOR, SUFFICIENT
3 CAPACITY NO LONGER EXISTS FOR ADDITIONAL WIRELESS FACILITIES TO BE PLACED IN THE
4 PROPOSED LOCATION WITHOUT JEOPARDIZING THE PHYSICAL INTEGRITY OF PUBLIC WATER
5 AND SEWER AND OTHER UTILITIES OR OTHER FACILITIES ALREADY PRESENT IN THE
6 PROPOSED LOCATION, OR THE SAFE AND EFFICIENT VEHICULAR OR PEDESTRIAN USE OF THE
7 PUBLIC RIGHT-OF-WAY; OR WHERE THE USE OF THE PUBLIC STREET LIGHT OR WORK
8 ASSOCIATED WITH THE USE OR MAINTENANCE OF THE WIRELESS FACILITY WOULD VIOLATE
9 APPLICABLE LAW.

10 (2) SHALL REVIEW THE APPLICATION FOR A PERMIT IN LIGHT OF THE APPLICATION'S
11 CONFORMITY WITH APPLICABLE REGULATIONS AND COMMUNITY DESIGN GUIDELINES AND
12 SHALL ISSUE A PERMIT ON NONDISCRIMINATORY TERMS AND CONDITIONS.

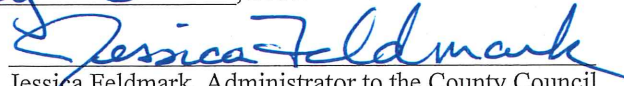
13 ~~(EF)~~ FEE FOR PERMIT REVIEW. THE COUNTY SHALL CHARGE AND AN APPLICANT SHALL PAY ~~AN A~~
14 REASONABLE APPLICATION REVIEW FEE FOR THE REVIEW OF A PERMIT ISSUED UNDER THIS
15 SECTION. THE PUBLIC STREET LIGHT PERMIT REVIEW FEE SHALL BE ADOPTED BY RESOLUTION OF
16 THE COUNTY COUNCIL AND SHALL BE IN ADDITION TO ANY COMPENSATION AGREED TO BY THE
17 PARTIES UNDER THE AGREEMENT FOR USE OF THE PUBLIC STREET LIGHTS.

18 ~~(FG)~~ USE OF PUBLIC RIGHT-OF-WAY. NOTHING IN THIS SECTION SHALL AFFECT OR LIMIT THE
19 COUNTY'S RIGHT TO CHARGE A SEPARATE FEE OR TO REQUIRE A SEPARATE CONSENT FOR ACCESS
20 TO OR THE USE OF THE PUBLIC RIGHTS-OF-WAY. ANY PERMIT GRANTED PURSUANT TO THIS
21 SECTION SHALL BE IN ADDITION TO, AND NOT IN LIEU OF, THE FEE AND PERMIT REQUIRED TO
22 UTILIZE AND CONSTRUCT WITHIN THE PUBLIC RIGHT-OF-WAY.

23
24 ***Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that***
25 ***this Act shall become effective 61 days after its enactment.***

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on May 5, 2017.



Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2017.

Jessica Feldmark, Administrator to the County Council

Amendment 1 Amendment 1 to Council Bill No. 26-2017

BY: The Chairperson at the
request of the County Executive

Legislative Day No.
Date: May 1, 2017

Amendment No. 1

(This amendment inserts a missing word.)

- 1 On page 3, in line 6, before "FACILITY" insert "WIRELESS".

ADOPTED 5/1/17
FAILED _____
SIGNATURE Jessica Addmark

Amendment 1 to Council Bill No. 26-2017

BY: The Chairperson at the
request of the County Executive

Legislative Day No. 7
Date: May 1, 2017

Amendment No. 1

(This amendment:

1. Clarifies when a person can place a structure on public property;
2. Adds a section listing possible items that may be included in the Agreement;
3. Clarifies the definition of Wireless Facility;
4. Clarifies the process for obtaining a permit;
5. Clarifies that a permit will be issued in light of the applicant's conformity with applicable regulations; and
6. Clarifies that fees will be reasonable.)

1 On page 1, in line 5, after "(a)", insert "and Subsection (c), both".

2

3 On page 2, in line 5, insert:

4 "(c) Structures on Public Property. A person may not install temporary or permanent structures
5 in, on, over, through, or across public property [[without]]:

6 (1) WITHOUT the permission of the Director; or

7 (2) UNLESS THE PERSON HAS AUTHORITY TO INSTALL THE STRUCTURE WITHOUT PERMISSION
8 UNDER STATE LAW, OR UNDER A FRANCHISE OR LICENSE ISSUED BY THE COUNTY."

9

10 On page 2, in line 11, strike ", WHICH".

11

12 On page 2, strike lines 12 and 13, inclusive and in their entirety and substitute:

13 "AND WHICH AGREEMENT MAY INCLUDE THE ITEMS LISTED IN SUBSECTION (D) OF THIS SECTION.".

14

15 On page 2, strike lines 26, 27 and 28, inclusive and in their entirety and substitute:

16 "(3) WIRELESS FACILITY.

17 (i) WIRELESS FACILITY MEANS A FACILITY THAT:

18 A. IS LICENSED OR AUTHORIZED BY THE FEDERAL COMMUNICATIONS COMMISSION;

19 B. IS AT A FIXED LOCATION; AND

20 C. ENABLES WIRELESS COMMUNICATIONS BETWEEN USER EQUIPMENT AND A

1 COMMUNICATIONS NETWORK.

2 (II) A WIRELESS FACILITY INCLUDES:

3 A. EQUIPMENT ASSOCIATED WITH WIRELESS COMMUNICATIONS SERVICES SUCH AS
4 PRIVATE, BROADCAST, AND PUBLIC SAFETY SERVICES;

5 B. UNLICENSED WIRELESS SERVICES AND FIXED WIRELESS SERVICES SUCH AS
6 MICROWAVE BACKHAUL;”.

7
8 On page 2, in line 29:

- 9 1. Strike “(I)” and substitute “C.”;
- 10 2. Strike “INCLUDING” and substitute “INCLUDING, WITHOUT LIMITATION,”; and
- 11 3. After “WIRES,” insert “BACK-UP POWER SUPPLIES,”.

12
13 On page 2, in line 31, strike “(II)” and substitute “D.”.

14
15 On page 3, in line 2, strike “WHETHER OR NOT” and substitute “IRRESPECTIVE OF WHETHER THE
16 METERS AND WIRING ARE”.

17
18 On page 3, inline 7, after the first “THE”, insert “COUNTY SHALL CREATE AN APPLICATION FORM
19 THAT MAY REQUIRE AN” and, in the same line, strike “SHALL” and substitute “TO”.

20
21 On page 3, in line 8, strike “, AND SUCH OTHER INFORMATION AS THE COUNTY MAY”.

22
23 On page 3, in line 9, strike “REQUEST IN CONNECTION WITH ITS REVIEW OF THE APPLICATION”.

24
25 On page 3, in line 23, strike the second “AND”.

26
27 On page 3, in line 24, strike “FORM.” and substitute “FORM; AND”.

28
29 On page 3, after line 24, insert:

30 “ (7) SUCH OTHER INFORMATION AS THE COUNTY MAY REQUIRE IN ITS REVIEW OF THE
31 APPLICATION.”

1 (D) AGREEMENT FOR USE OF PUBLIC STREET LIGHTS. AN AGREEMENT FOR USE OF PUBLIC STREET
2 LIGHTS SHALL INCLUDE TERMS AND CONDITIONS FOR THE INSTALLATION OF THE WIRELESS
3 FACILITIES AS AGREED UPON BY THE APPLICANT AND THE COUNTY, WHICH SHALL INCLUDE FAIR
4 COMPENSATION TO THE COUNTY FOR THE APPLICANT’S USE OF THE PUBLIC STREET LIGHTS AND
5 WHICH MAY ALSO INCLUDE:

6 (1) PROVISIONS THAT ALLOW FOR THE ROUTINE MAINTENANCE OF THE WIRELESS FACILITY;

7 (2) PROVISIONS THAT ALLOW FOR THE REPLACEMENT OF A WIRELESS FACILITY WITH ANOTHER
8 SMALL WIRELESS FACILITY THAT IS SUBSTANTIALLY SIMILAR OR SMALLER IN SIZE, WEIGHT,
9 AND HEIGHT;

10 (3) PROVISIONS THAT ALLOW FOR MULTIPLE WIRELESS FACILITIES;

11 (4) THE LENGTH OF TIME FOR WHICH AN APPLICATION MAY BE CONSIDERED; OR

12 (5) THE LENGTH OF TIME FOR WHICH A PERMIT WILL BE VALID.”.

13
14 On page 3, strike lines 25 and 26, inclusive and in their entirety and substitute:

15 “(E) DISCRETION OF DIRECTOR. THE DIRECTOR:

16 (1) MAY NOT ISSUE A PERMIT WHERE, IN THE JUDGMENT OF THE DIRECTOR, SUFFICIENT
17 CAPACITY NO LONGER”.

18
19 On page 4, after line 1, insert:

20 “(2) SHALL REVIEW THE APPLICATION FOR A PERMIT IN LIGHT OF THE APPLICATION’S
21 CONFORMITY WITH APPLICABLE REGULATIONS AND COMMUNITY DESIGN GUIDELINES AND
22 SHALL ISSUE A PERMIT ON NONDISCRIMINATORY TERMS AND CONDITIONS.”.

23
24 On page 4, in line 2, strike “E” and substitute “F” and, in the same line, strike the last “AN” and
25 substitute “A REASONABLE”.

26
27 On page 4, in line 7, strike “F” and substitute “G”.

ADOPTED *as amended 5/1/17*
FAILED
SIGNATURE *Jessica Feldman*

1 (D) AGREEMENT FOR USE OF PUBLIC STREET LIGHTS. AN AGREEMENT FOR USE OF PUBLIC STREET
2 LIGHTS SHALL INCLUDE TERMS AND CONDITIONS FOR THE INSTALLATION OF THE WIRELESS
3 FACILITIES AS AGREED UPON BY THE APPLICANT AND THE COUNTY, WHICH SHALL INCLUDE FAIR
4 COMPENSATION TO THE COUNTY FOR THE APPLICANT'S USE OF THE PUBLIC STREET LIGHTS AND
5 WHICH MAY ALSO INCLUDE:

6 (1) PROVISIONS THAT ALLOW FOR THE ROUTINE MAINTENANCE OF THE FACILITY;

7 (2) PROVISIONS THAT ALLOW FOR THE REPLACEMENT OF A WIRELESS FACILITY WITH ANOTHER
8 SMALL WIRELESS FACILITY THAT IS SUBSTANTIALLY SIMILAR OR SMALLER IN SIZE, WEIGHT,
9 AND HEIGHT;

10 (3) PROVISIONS THAT ALLOW FOR MULTIPLE WIRELESS FACILITIES;

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12 (5) THE LENGTH OF TIME FOR WHICH A PERMIT WILL BE VALID.”

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22 SHALL ISSUE A PERMIT ON NONDISCRIMINATORY TERMS AND CONDITIONS.”

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24 On page 4, in line 2, strike “E” and substitute “F” and, in the same line, strike the last “AN” and
25 substitute “A REASONABLE”.

26
27 On page 4, in line 7, strike “F” and substitute “G”.



Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2017 Legislative Session

Legislative Day No. 6

Bill No. 26-2017

Introduced by: The Chairperson at the request of the County Executive

AN ACT requiring a permit for the installation of certain wireless facilities on public street lights; defining certain terms; amending certain definitions; requiring certain information in support of an application for a permit; requiring certain agreements; requiring that certain agreements include fair compensation; providing for the review of applications; authorizing certain fees; and generally related to public rights-of-way in Howard County.

Introduced and read first time _____, 2017. Ordered posted and hearing scheduled.

By order _____
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2017.

By order _____
Jessica Feldmark, Administrator

This Bill was read the third time on _____, 2017 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2017 at ___ a.m./p.m.

By order _____
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive _____, 2017

Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland that the Howard
2 County Code is amended as follows:

3
4 1. By amending Title 18 "Public Works"
5 Subsection (a) of Section 18.205 "Roads, bridges, and rights-of-way – Obstructions,
6 damage, and drainage".

7
8 2. By adding Title 18 "Public Works"
9 Section 18.206A. "Wireless Facilities on Public Street Lights"

10
11 **Title 18. Public Works.**

12 **Subtitle 2. Roads.**

13
14 **Section 18.205. Roads, bridges, and rights-of-way- Obstructions, damage, and drainage.**

15 (a) *Definitions:*

16 (1) In this [[section and in section 18.206]] SECTION, SECTION 18.206 AND SECTION 18.206A,
17 the following terms have the meanings indicated:

18 (2) *Department* means the Howard County Department of Public Works.

19 (3) *Director* means the Director of the Department.

20 (4) *Public property* means a County-owned or controlled road, road right-of-way, shoulder,
21 sidewalk, ditch line, bridge, culvert, curbing, drainage facility, utility easement, or any
22 appurtenances or signs associated with any of the above.

23 (5) (i) *Structure* means anything constructed, the use of which requires permanent or
24 temporary location on the ground or attached to something having a temporary or
25 permanent location on the ground.

26 (ii) *Structure* does not include:

27 a. A newspaper box, or a mailbox meeting the standards of the United States Postal
28 Service, provided that each is mounted on a post in conformance with "A Guide
29 for Erecting Mailboxes on Highways" by the American Association of State
30 Highway and Transportation Officials, Third Edition, dated 1994;

- 1 b. A utility pole or utility box WHICH ARE NOT A PART OF A WIRELESS FACILITY AS
2 DEFINED IN SECTION 18.206A OF THIS SUBTITLE; or
3 c. A sign permitted in a right-of-way under subtitle 5 "Signs" of title 3 "Buildings"
4 of the Howard County Code.

5
6 **SECTION 18.206A. WIRELESS FACILITIES ON PUBLIC STREET LIGHTS.**

7 (A) *APPLICATION FOR A PERMIT.* A PERMIT IS REQUIRED FOR THE INSTALLATION, OPERATION,
8 MAINTENANCE, AND REMOVAL OF WIRELESS FACILITIES ON A PUBLIC STREET LIGHT. A PERMIT
9 SHALL NOT BE ISSUED BY THE DIRECTOR UNLESS AND UNTIL AN AGREEMENT FOR USE OF PUBLIC
10 STREET LIGHTS SETTING FORTH THE TERMS AND CONDITIONS FOR THE INSTALLATION OF THE
11 WIRELESS FACILITIES HAS BEEN REACHED BETWEEN THE COUNTY AND THE APPLICANT, WHICH
12 SHALL INCLUDE FAIR COMPENSATION TO THE COUNTY FOR APPLICANT'S USE OF THE PUBLIC STREET
13 LIGHTS.

14 (B) *DEFINITIONS.* IN ADDITION TO THE TERMS PREVIOUSLY DEFINED IN THIS SUBTITLE, THE
15 FOLLOWING TERMS SHALL HAVE THE MEANINGS INDICATED:

16 (1) *PUBLIC RIGHT-OF-WAY* MEANS THE ROADS LISTED AS OWNED AND MAINTAINED BY THE
17 COUNTY IN THE "HOWARD COUNTY MASTER ROAD BOOK" AND WHICH ARE CLASSIFIED AS
18 ARTERIAL OR COLLECTOR.

19 (2) *PUBLIC STREET LIGHT* MEANS THE EXISTING STRUCTURE OWNED BY THE COUNTY, PRIMARILY
20 DESIGNED FOR LIGHTING A PUBLIC RIGHT-OF-WAY, INCLUDING THE SUPPORTING POLE,
21 LUMINAIRE, ARMS, LEASED ELECTRIC WIRES, FOUNDATIONS, INTERNAL DIVIDERS, HAND
22 HOLES, VAULTS, PEDESTALS, AND BASES. A PUBLIC STREET LIGHT DOES NOT INCLUDE:

23 (I) A LIGHTING SYSTEM ATTACHED TO A UTILITY POLE, TRAFFIC SIGNAL POLE, BUILDING, OR
24 SIMILAR STRUCTURE; OR

25 (II) ANY FACILITY THAT IS PRIVATELY OWNED.

26 (3) *WIRELESS FACILITY* MEANS A FACILITY AT A FIXED LOCATION THAT WIRELESSLY CONNECTS
27 TO MOBILE STATIONS AND IS USED TO PROVIDE PERSONAL WIRELESS SERVICES AS DEFINED
28 AT 47 U.S.C. 332(C)(7). WIRELESS FACILITY INCLUDES:

29 (I) ALL ELEMENTS OF THE FACILITY, INCLUDING ANTENNAS, CABINETS, CABLES, WIRES, AND
30 RADIO UNITS; AND

31 (II) FACILITIES IN, AT, OR NEAR THE WIRELESS FACILITY AND ASSOCIATED WITH THE

1 FACILITY'S OPERATIONS, INCLUDING ELECTRIC METERS AND ELECTRICAL WIRING
2 WHETHER OR NOT OWNED OR MAINTAINED BY THE SAME PERSON THAT OWNS OTHER
3 PORTIONS OF THE WIRELESS FACILITY.

4 (4) *WIRELESS PROVIDER* MEANS THE ENTITIES THAT ARE AUTHORIZED BY THE FEDERAL
5 COMMUNICATION COMMISSION TO PROVIDE PERSONAL WIRELESS SERVICES AS DEFINED AT
6 47 U.S.C. SECTION 332(C)(7).

7 (C) *INFORMATION REQUIRED*. THE APPLICANT SHALL SUBMIT THE FOLLOWING INFORMATION IN THE
8 REQUEST TO USE THE PUBLIC STREET LIGHTS, AND SUCH OTHER INFORMATION AS THE COUNTY MAY
9 REQUEST IN CONNECTION WITH ITS REVIEW OF THE APPLICATION:

10 (1) A TECHNICAL DESCRIPTION OF THE PROPOSED WIRELESS FACILITIES INCLUDING DETAILED
11 SPECIFICATIONS AND DIAGRAMS ACCURATELY DEPICTING THE PROPOSED WIRELESS
12 FACILITIES, AND THE LOCATIONS OF THE PUBLIC STREET LIGHTS ON THE PUBLIC RIGHTS-OF-
13 WAY THE APPLICANT PROPOSES TO USE;

14 (2) A DETAILED DEPLOYMENT PLAN DESCRIBING CONSTRUCTION OF THE WIRELESS FACILITIES
15 PLANNED FOR THE 12-MONTH PERIOD FOLLOWING THE ISSUANCE OF THE PERMIT;

16 (3) ENGINEERING CERTIFICATIONS RELATING TO THE PROPOSED CONSTRUCTION;

17 (4) A STATEMENT DESCRIBING THE APPLICANT'S INTENTIONS WITH RESPECT TO COLLOCATION,
18 AND IF THE APPLICANT IS NOT A WIRELESS PROVIDER, THE IDENTITY OF THE WIRELESS
19 PROVIDER(S) USING THE PROPOSED WIRELESS FACILITIES;

20 (5) A STATEMENT DEMONSTRATING THE APPLICANT'S DUTY TO COMPLY WITH APPLICABLE
21 SAFETY STANDARDS FOR THE PROPOSED ACTIVITIES IN THE PUBLIC RIGHT-OF-WAY
22 INCLUDING EMERGENCY RESPONSE PLAN, SCHEDULE OF MAINTENANCE, OPERATION,
23 RELOCATION, AND REMOVAL OF THE WIRELESS FACILITIES AT APPLICANT'S SOLE COST; AND

24 (6) SUCH OTHER INFORMATION AS THE COUNTY MAY REQUIRE IN AN APPLICATION FORM.

25 (D) *DISCRETION OF DIRECTOR*. A PERMIT SHALL NOT BE ISSUED WITH RESPECT TO ANY PUBLIC
26 STREET LIGHT WHERE, IN THE JUDGMENT OF THE DIRECTOR, SUFFICIENT CAPACITY NO LONGER
27 EXISTS FOR ADDITIONAL WIRELESS FACILITIES TO BE PLACED IN THE PROPOSED LOCATION WITHOUT
28 JEOPARDIZING THE PHYSICAL INTEGRITY OF PUBLIC WATER AND SEWER AND OTHER UTILITIES OR
29 OTHER FACILITIES ALREADY PRESENT IN THE PROPOSED LOCATION, OR THE SAFE AND EFFICIENT
30 VEHICULAR OR PEDESTRIAN USE OF THE PUBLIC RIGHT-OF-WAY; OR WHERE THE USE OF THE PUBLIC
31 STREET LIGHT OR WORK ASSOCIATED WITH THE USE OR MAINTENANCE OF THE WIRELESS FACILITY

1 WOULD VIOLATE APPLICABLE LAW.

2 (E) *FEES FOR PERMIT REVIEW.* THE COUNTY SHALL CHARGE AND AN APPLICANT SHALL PAY AN
3 APPLICATION REVIEW FEE FOR THE REVIEW OF A PERMIT ISSUED UNDER THIS SECTION. THE PUBLIC
4 STREET LIGHT PERMIT REVIEW FEE SHALL BE ADOPTED BY RESOLUTION OF THE COUNTY COUNCIL
5 AND SHALL BE IN ADDITION TO ANY COMPENSATION AGREED TO BY THE PARTIES UNDER THE
6 AGREEMENT FOR USE OF THE PUBLIC STREET LIGHTS.

7 (F) *USE OF PUBLIC RIGHT-OF-WAY.* NOTHING IN THIS SECTION SHALL AFFECT OR LIMIT THE
8 COUNTY'S RIGHT TO CHARGE A SEPARATE FEE OR TO REQUIRE A SEPARATE CONSENT FOR ACCESS TO
9 OR THE USE OF THE PUBLIC RIGHTS-OF-WAY. ANY PERMIT GRANTED PURSUANT TO THIS SECTION
10 SHALL BE IN ADDITION TO, AND NOT IN LIEU OF, THE FEE AND PERMIT REQUIRED TO UTILIZE AND
11 CONSTRUCT WITHIN THE PUBLIC RIGHT-OF-WAY.

12

13 *Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that*
14 *this Act shall become effective 61 days after its enactment.*



Amendment 1 Amendment 1 to Council Bill No. 26-2017

**BY: The Chairperson at the
request of the County Executive**

**Legislative Day No. 7
Date: May 1, 2017**

Amendment No. 1

(This amendment inserts a missing word.)

- 1 On page 3, in line 6, before "FACILITY" insert "WIRELESS".

Amendment 1 to Council Bill No. 26-2017

BY: The Chairperson at the
request of the County Executive

Legislative Day No. 7
Date: May 1, 2017

Amendment No. 1

(This amendment:

1. Clarifies when a person can place a structure on public property;
2. Adds a section listing possible items that may be included in the Agreement;
3. Clarifies the definition of Wireless Facility;
4. Clarifies the process for obtaining a permit;
5. Clarifies that a permit will be issued in light of the applicant's conformity with applicable regulations; and
6. Clarifies that fees will be reasonable.)

1 On page 1, in line 5, after "(a)", insert "and Subsection (c), both".

2

3 On page 2, in line 5, insert:

4 "(c) Structures on Public Property. A person may not install temporary or permanent structures
5 in, on, over, through, or across public property [[without]]:

6 (1) WITHOUT the permission of the Director; or

7 (2) UNLESS THE PERSON HAS AUTHORITY TO INSTALL THE STRUCTURE WITHOUT PERMISSION
8 UNDER STATE LAW, OR UNDER A FRANCHISE OR LICENSE ISSUED BY THE COUNTY."

9

10 On page 2, in line 11, strike ", WHICH".

11

12 On page 2, strike lines 12 and 13, inclusive and in their entirety and substitute:

13 "AND WHICH AGREEMENT MAY INCLUDE THE ITEMS LISTED IN SUBSECTION (D) OF THIS SECTION."

14

15 On page 2, strike lines 26, 27 and 28, inclusive and in their entirety and substitute:

16 "(3) WIRELESS FACILITY.

17 (I) WIRELESS FACILITY MEANS A FACILITY THAT:

18 A. IS LICENSED OR AUTHORIZED BY THE FEDERAL COMMUNICATIONS COMMISSION;

19 B. IS AT A FIXED LOCATION; AND

20 C. ENABLES WIRELESS COMMUNICATIONS BETWEEN USER EQUIPMENT AND A

1 COMMUNICATIONS NETWORK.

2 (II) A WIRELESS FACILITY INCLUDES:

3 A. EQUIPMENT ASSOCIATED WITH WIRELESS COMMUNICATIONS SERVICES SUCH AS
4 PRIVATE, BROADCAST, AND PUBLIC SAFETY SERVICES;

5 B. UNLICENSED WIRELESS SERVICES AND FIXED WIRELESS SERVICES SUCH AS
6 MICROWAVE BACKHAUL;”.

7
8 On page 2, in line 29:

- 9 1. Strike “(I)” and substitute “C.”;
- 10 2. Strike “INCLUDING” and substitute “INCLUDING, WITHOUT LIMITATION,”; and
- 11 3. After “WIRES,” insert “BACK-UP POWER SUPPLIES,”.

12
13 On page 2, in line 31, strike “(II)” and substitute “D.”.

14
15 On page 3, in line 2, strike “WHETHER OR NOT” and substitute “IRRESPECTIVE OF WHETHER THE
16 METERS AND WIRING ARE”.

17
18 On page 3, in line 7, after the first “THE”, insert “COUNTY SHALL CREATE AN APPLICATION FORM
19 THAT MAY REQUIRE AN” and, in the same line, strike “SHALL” and substitute “TO”.

20
21 On page 3, in line 8, strike “, AND SUCH OTHER INFORMATION AS THE COUNTY MAY”.

22
23 On page 3, in line 9, strike “REQUEST IN CONNECTION WITH ITS REVIEW OF THE APPLICATION”.

24
25 On page 3, in line 23, strike the second “AND”.

26
27 On page 3, in line 24, strike “FORM.” and substitute “FORM; AND”.

28
29 On page 3, after line 24, insert:

30 “ (7) SUCH OTHER INFORMATION AS THE COUNTY MAY REQUIRE IN ITS REVIEW OF THE
31 APPLICATION.”

1 (D) AGREEMENT FOR USE OF PUBLIC STREET LIGHTS. AN AGREEMENT FOR USE OF PUBLIC STREET
2 LIGHTS SHALL INCLUDE TERMS AND CONDITIONS FOR THE INSTALLATION OF THE WIRELESS
3 FACILITIES AS AGREED UPON BY THE APPLICANT AND THE COUNTY, WHICH SHALL INCLUDE FAIR
4 COMPENSATION TO THE COUNTY FOR THE APPLICANT’S USE OF THE PUBLIC STREET LIGHTS AND
5 WHICH MAY ALSO INCLUDE:

- 6 (1) PROVISIONS THAT ALLOW FOR THE ROUTINE MAINTENANCE OF THE FACILITY;
7 (2) PROVISIONS THAT ALLOW FOR THE REPLACEMENT OF A WIRELESS FACILITY WITH ANOTHER
8 SMALL WIRELESS FACILITY THAT IS SUBSTANTIALLY SIMILAR OR SMALLER IN SIZE, WEIGHT,
9 AND HEIGHT;
10 (3) PROVISIONS THAT ALLOW FOR MULTIPLE WIRELESS FACILITIES;
11 (4) THE LENGTH OF TIME FOR WHICH AN APPLICATION MAY BE CONSIDERED; OR
12 (5) THE LENGTH OF TIME FOR WHICH A PERMIT WILL BE VALID.”.

13
14 On page 3, strike lines 25 and 26, inclusive and in their entirety and substitute:

- 15 “(E) DISCRETION OF DIRECTOR. THE DIRECTOR:
16 (1) MAY NOT ISSUE A PERMIT WHERE, IN THE JUDGMENT OF THE DIRECTOR, SUFFICIENT
17 CAPACITY NO LONGER”.

18
19 On page 4, after line 1, insert:

- 20 “(2) SHALL REVIEW THE APPLICATION FOR A PERMIT IN LIGHT OF THE APPLICATION’S
21 CONFORMITY WITH APPLICABLE REGULATIONS AND COMMUNITY DESIGN GUIDELINES AND
22 SHALL ISSUE A PERMIT ON NONDISCRIMINATORY TERMS AND CONDITIONS.”.

23
24 On page 4, in line 2, strike “E” and substitute “F” and, in the same line, strike the last “AN” and
25 substitute “A REASONABLE”.

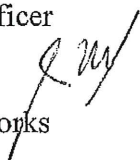
26
27 On page 4, in line 7, strike “F” and substitute “G”.

CB26

**Howard County**
Internal Memorandum

Subject: Council Bill No. 262017 for Title 18.206A Public Works Rights-of-Way

To: Lonnie R. Robbins
Chief Administrative Officer

From: James M. Irvin, Director 
Department of Public Works

Date: March 22, 2017

Providers of mobile phone services and facilities are asking jurisdictions around the country to permit them to install antennas and new structures in rights-of-way. They argue that these facilities are needed to provide high speed data services to the public, and often assert a legal right to place facilities in the rights-of-way. Under this ordinance, the County will provide a way for companies to use the rights-of-way in a non-intrusive manner by placing certain wireless facilities on or in street light poles owned by the County.

The bill requires a permit for the operation, installation, maintenance and removal of certain wireless facilities on a public street light. Pursuant to the legislation, companies that provide wireless facilities or services will enter into an agreement with the County for the placement of the facility. The agreement will include fair compensation for the use of the street light, and can include specific design requirements. Nothing in the bill requires the County to issue a permit to anyone unless the proposed facility is one that is acceptable to the County, and that is safe.

The bill does not prevent companies from installing similar wireless facilities elsewhere in the rights-of-way, but it does make it clear that anyone who wishes to install wireless facilities in the rights-of-way similar to those that are permitted on street lights must obtain the permission of the Director of Public Works.

This bill is focused on street lights and is not intended to address all issues associated with placement of wireless equipment in light of changes in technology and federal regulation. This bill focuses solely on equipment used at least in part to communicate with mobile devices. However, by making street lights available, placement elsewhere may not be necessary.

If you have any questions or require any further information, please do not hesitate to contact me. Thank you for your consideration.

cc: Jennifer Sager, Legislative Coordinator
John Seefried, Chief Construction Inspection Division

CB 26-2017



DONOHUE & STEARNS, PLC

April 19, 2017

Mr. Jon Weinstein, Chair
Howard County Council
George Howard Building
3420 Court House Drive
Ellicott City, Maryland 21043

Cc: Council Members; Allan H. Kittleman; Jennifer Sager

Re: Council Bill No. 26-2017

Chair Weinstein:

On behalf of my client, T-Mobile, I am writing to provide comments on Council Bill No. 26-2017 that is scheduled to be considered by the Howard County Council on April 19, 2017.

T-Mobile supports the proposed legislation that purports to allow for the co-location of wireless facilities on public street lights in the rights-of-way. As a provider of wireless services, T-Mobile recognizes the need to facilitate the deployment of telecommunications facilities that support and supplement macro sites. Council Bill 26-2017 will allow for a stream-lined process through which wireless carriers can secure more small cell co-location opportunities to improve coverage and capacity in the County.

T-Mobile would ultimately like to see legislation that also allows for new structures within the rights-of-way and believes that this can be accomplished without conflict with the currently proposed Bill or existing structures and uses currently allowed in the public rights-of-way. Moreover, we understand that any expansion of right-of-way opportunities will require coordination with the Department of Public Works.

Again, T-Mobile supports the proposed Bill, appreciates the chance to submit comments and would be pleased to work with planning and public works staff on this and other legislation that similarly expands opportunities for wireless service improvement throughout Howard County.

Thank you for your consideration of the above,

Edward L. Donohue



Leonardo McClarty
President/CEO, Howard County Chamber

April 19, 2017

Mr. Jon Weinstein
Howard County Council Chair
George Howard Building
3430 Court House Drive
Ellicott City, MD 21043

Dear Councilman Weinstein:

The Howard County Chamber of Commerce is the preeminent voice for the Howard County business community. As always, we are focused on advocating for pro-business policy and free enterprise. I come to you in support of Howard County Bill Number 26-2017 with Amendments. The ordinance would help keep our county on the forefront of technology by streamlining the process for approving the installation of the wireless broadband infrastructure our residents and businesses want and need.

More than ever before, our companies need strong networks because they rely so much on their smartphones, tablets and videoconferencing tools. Howard County's businesses expect to be able to connect and communicate anywhere, anytime, and from any device to remain competitive.

The modern marketplace never closes and is constantly evolving. We have seen explosive growth in mobile video use and we need our leaders to adopt policies that will keep our businesses and residents connected. Traditional cell towers are not enough to keep up with demand, so the industry is using technology called small cells to provide additional coverage in high-traffic, high-demand areas. This new technology also helps lay the foundation for future technologies, like 5G mobile broadband services.

We hope you will support Howard County Bill Number 26-2017 with Amendments to keep our community on the cutting edge of communication technology. This legislation is absolutely crucial to guaranteeing our county's businesses and residents have the access they need.

Sincerely,

A handwritten signature in black ink that reads "Leonardo McClarty".

Leonardo McClarty, CCE
President, Howard County Chamber of Commerce

**Written Testimony
In support of Howard County Bill No. 26-2017 with Amendments
By**

La Tara Harris, Regional Director, External and Legislative Affairs for AT&T

April 19, 2017

Hello. My name is La Tara Harris, Regional Director, External and Legislative Affairs for AT&T here in Maryland. I appreciate the opportunity to address the Council and to provide comments in support of this proposed bill amending your zoning ordinance and in support of amendments to that bill.

Today, more and more consumers are using their smart devices to send text messages, email or video-chat; post to social networks or stream music and movies at home or on-the-go; manage their business operations from almost anywhere; and much more. This increasing use of mobile apps and services that touch nearly every part of our daily lives has led to an explosion in wireless data usage. From January 2007 through December 2016, AT&T experienced a 250,000% increase in data usage on our network. And, as streaming video continues to become more prominent and new apps and services are introduced, this growth in data use will continue to rise.

With this increased demand, AT&T and other industry leaders are coming up with more innovative ways to enhance our network, prepare for the next generation of technologies and services and provide a better experience for our customers. One of these solutions is the deployment and use of small cells.

You are undoubtedly familiar with traditional macro cell sites -- the ones you often see atop free-standing towers, buildings, water tanks or other tall structures. The existing County zoning ordinance was authored with construction of those macro cell sites in mind.

However, in response to increase demand, network architecture is now changing to include “small cells.” Small cells are flexible network solutions that can be readily deployed to specific locations. Small cells provide enhanced voice and data services by helping to bolster network capacity to allow faster downloads and improved call quality for consumers within its coverage area.

Small cells are typically low profile, compact, scalable and unobtrusive. Depending on the need, small cells can be placed in buildings or outdoors. When placed outdoors, small cells can be attached to existing utility poles, light poles, traffic lights or exterior walls of buildings. The antennae on small cells are significantly smaller than the ones you typically see on poles or rooftops today. This bill would properly allow the deployment of small cells in the County right-of-way atop light poles. AT&T supports that proposal. But in order to fully encourage and facilitate the deployment of small cells in the right-of-way, the amendments should go one step further.

AT&T supports amendments to the bill that would extend its reach to similar public structures in the right-of-way such as traffic signals and structures for signage, rather than limiting the scope of the bill to street light poles.

AT&T also supports further amendments that would add clarity to the application requirements and timeframes for permit approvals, which are important factors in deployment decisions. In sum, AT&T urges the Council to not only open the rights-of-way to small cell deployments, but to streamline the procedures for issuance of permits and enable the full, non-discriminatory use of the rights-of-way for the benefit of the County’s residents.

This Council can and should facilitate the deployment of small cells to bring your citizens enhanced coverage and capacity while helping to accommodate future technologies by establishing streamlined permitting processes.

For these reasons, AT&T supports Howard County Bill No. 26-2017 with Amendments.

Proposed Amendments to Howard County Bill No. 26-2017:

Section 18206A

Section (A) should be amended as follows:

(A) APPLICATION FOR A PERMIT. A PERMIT IS REQUIRED FOR THE INSTALLATION, OPERATION, ~~MAINTENANCE,~~ AND REMOVAL OF WIRELESS FACILITIES ON A PUBLIC ~~STREET LIGHT~~POLE. A PERMIT SHALL NOT BE ISSUED BY THE DIRECTOR UNLESS AND UNTIL AN AGREEMENT FOR USE OF PUBLIC STREET LIGHTS SETTING FORTH THE TERMS AND CONDITIONS FOR THE INSTALLATION OF THE WIRELESS FACILITIES HAS BEEN REACHED BETWEEN THE COUNTY AND THE APPLICANT, WHICH SHALL INCLUDE FAIR COMPENSATION TO THE COUNTY FOR APPLICANT'S USE OF THE PUBLIC STREET LIGHTS. AN APPLICATION SHALL NOT BE REQUIRED FOR ROUTINE MAINTENANCE AND THE REPLACEMENT OF A WIRELESS FACILITY WITH ANOTHER SMALL WIRELESS FACILITY THAT IS SUBSTANTIALLY SIMILAR OR SMALLER IN SIZE, WEIGHT, AND HEIGHT.

Section B(2) should be amended as follows:

PUBLIC ~~STREET LIGHT~~POLE MEANS ~~THE AN~~ EXISTING STRUCTURE OWNED OR OPERATED BY THE COUNTY, INCLUDING STREET LIGHT POLES, TRAFFIC SIGNALS, AND STRUCTURES FOR SIGNAGE IN PRIMARILY DESIGNED FOR LIGHTING-A PUBLIC RIGHT-OF-WAY, INCLUDING THE SUPPORTING POLE, LUMINAIRE, ARMS, LEASED ELECTRIC WIRES, FOUNDATIONS, INTERNAL DIVIDERS, HAND HOLES, VAULTS, PEDESTALS, AND BASES. A PUBLIC ~~POLE~~STREET LIGHT DOES NOT INCLUDE:

~~(I) A LIGHTING SYSTEM ATTACHED TO A UTILITY POLE, TRAFFIC SIGNAL POLE, BUILDING, OR SIMILAR STRUCTURE; OR~~

~~(II) ANY FACILITY THAT IS PRIVATELY OWNED.~~

Section (C) should be amended as follows:

(C) INFORMATION REQUIRED. THE COUNTY SHALL CREATE AN APPLICATION FORM THAT MAY REQUIRE THE APPLICANT TO~~SHALL~~ SUBMIT THE FOLLOWING INFORMATION IN THE REQUEST TO USE THE PUBLIC ~~POLE~~STREET LIGHTS, AND SUCH OTHER INFORMATION AS THE COUNTY MAY REQUEST IN CONNECTION WITH ITS REVIEW OF THE APPLICATION:

(1) A TECHNICAL DESCRIPTION OF THE PROPOSED WIRELESS FACILITIES INCLUDING DETAILED SPECIFICATIONS AND DIAGRAMS ACCURATELY DEPICTING THE PROPOSED WIRELESS FACILITIES, AND THE LOCATIONS OF THE PUBLIC ~~STREET LIGHT~~SPOLE ON THE PUBLIC RIGHTS-OF-WAY THE APPLICANT PROPOSES TO USE;

(2) A DETAILED DEPLOYMENT PLAN DESCRIBING CONSTRUCTION OF THE WIRELESS FACILITIES PLANNED FOR THE 12-MONTH PERIOD FOLLOWING THE ISSUANCE OF THE PERMIT;

(3) ENGINEERING CERTIFICATIONS RELATING TO THE PROPOSED CONSTRUCTION;

(4) A STATEMENT DESCRIBING THE APPLICANT'S INTENTIONS WITH RESPECT TO COLLOCATION, AND IF THE APPLICANT IS NOT A WIRELESS PROVIDER, THE IDENTITY OF THE WIRELESS PROVIDER(S) USING THE PROPOSED WIRELESS FACILITIES;

(5) A STATEMENT DEMONSTRATING THE APPLICANT'S DUTY TO COMPLY WITH APPLICABLE SAFETY STANDARDS FOR THE PROPOSED ACTIVITIES IN THE PUBLIC RIGHT-OF-WAY INCLUDING EMERGENCY RESPONSE PLAN, SCHEDULE OF MAINTENANCE, OPERATION, RELOCATION, AND REMOVAL OF THE WIRELESS FACILITIES AT APPLICANT'S SOLE COST; AND

(6) SUCH OTHER INFORMATION NECESSARY FOR AS-THE COUNTY TO DETERMINE THE TECHNICAL FEASIBILITY OF THE PROPOSED ACTIVITIES MAY REQUIRE IN AN APPLICATION FORM.

Section (D) should be amended as follows:

(D) (1) DISCRETION OF DIRECTOR. A PERMIT SHALL NOT BE ISSUED WITH RESPECT TO ANY PUBLIC STREET LIGHTPOLE, WHERE, IN THE JUDGMENT OF THE DIRECTOR, SUFFICIENT CAPACITY NO LONGER EXISTS FOR ADDITIONAL WIRELESS FACILITIES TO BE PLACED IN THE PROPOSED LOCATION WITHOUT JEOPARDIZING THE PHYSICAL INTEGRITY OF PUBLIC WATER AND SEWER AND OTHER UTILITIES OR OTHER FACILITIES ALREADY PRESENT IN THE PROPOSED LOCATION, OR THE SAFE AND EFFICIENT VEHICULAR OR PEDESTRIAN USE OF THE PUBLIC RIGHT-OF-WAY; OR WHERE THE USE OF THE PUBLIC STREET LIGHTPOLE OR WORK ASSOCIATED WITH THE USE OR MAINTENANCE OF THE WIRELESS FACILITY WOULD VIOLATE APPLICABLE LAW.

(2) THE DIRECTOR SHALL REVIEW THE APPLICATION FOR A WIRELESS FACILITY PERMIT IN LIGHT OF ITS CONFORMITY WITH APPLICABLE REGULATIONS AND SHALL ISSUE A PERMIT ON NONDISCRIMINATORY TERMS AND CONDITIONS SUBJECT TO THE FOLLOWING TIMING REQUIREMENTS:

(A) WITHIN 10 DAYS OF RECEIVING AN APPLICATION, THE DIRECTOR MUST DETERMINE AND NOTIFY THE APPLICANT WHETHER THE APPLICATION IS COMPLETE; OR IF AN APPLICATION IS INCOMPLETE, THE DIRECTOR MUST SPECIFICALLY IDENTIFY THE MISSING INFORMATION.

(B) MAKE ITS FINAL DECISION TO APPROVE OR DENY THE APPLICATION WITHIN SIXTY (60) DAYS; AND

(C) ADVISE THE APPLICANT IN WRITING OF ITS FINAL DECISION, AND IN THE FINAL DECISION DOCUMENT THE BASIS FOR A DENIAL. THE APPLICANT MAY CURE THE DEFICIENCIES IDENTIFIED BY THE DIRECTOR AND RESUBMIT THE APPLICATION WITHIN 30 DAYS OF THE DENIAL WITHOUT PAYING AN ADDITIONAL APPLICATION FEE. THE DIRECTOR SHALL APPROVE OR DENY THE REVISED APPLICATION WITHIN 30 DAYS OF RECEIPT OF THE AMENDED APPLICATION. THE SUBSEQUENT REVIEW BY THE DIRECTOR SHALL BE LIMITED TO THE DEFICIENCIES CITED IN THE ORIGINAL DENIAL.

(D) IF THE DIRECTOR FAILS TO ACT ON AN APPLICATION WITHIN THE SIXTY (60) DAY REVIEW PERIOD, THE APPLICANT MAY PROVIDE NOTICE THAT THE TIME PERIOD FOR ACTING HAS LAPSED AND THE APPLICATION IS THEN DEEMED APPROVED.

(3) AN APPLICANT MAY, AT THE APPLICANT'S DISCRETION, FILE A CONSOLIDATED APPLICATION AND RECEIVE A SINGLE PERMIT FOR MULTIPLE WIRELESS FACILITIES. THE DIRECTOR SHALL GRANT A PERMIT FOR ANY AND ALL SITES IN A SINGLE APPLICATION THAT IT DOES NOT DENY SUBJECT TO THE REQUIREMENTS OF THIS SECTION.

Section (E) should be amended as follows:

(E) FEES FOR PERMIT REVIEW. THE COUNTY SHALL CHARGE AND AN APPLICANT SHALL PAY ~~AN~~ REASONABLE APPLICATION REVIEW FEE FOR THE REVIEW OF A PERMIT ISSUED UNDER THIS SECTION. THE PUBLIC ~~STREET LIGHTPOLE~~ PERMIT REVIEW FEE SHALL BE ADOPTED BY RESOLUTION OF THE COUNTY COUNCIL AND SHALL BE IN ADDITION TO ANY COMPENSATION AGREED TO BY THE PARTIES UNDER THE AGREEMENT FOR USE OF THE PUBLIC ~~STREET LIGHTSPOLES~~.

New Section (G) should be added as follows:

(G) EFFECT OF PERMIT. (1) NO PROPERTY RIGHT OR OTHER INTEREST CREATED. A PERMIT FROM THE COUNTY AUTHORIZES AN APPLICANT TO UNDERTAKE ONLY CERTAIN ACTIVITIES IN ACCORDANCE WITH THIS SECTION, AND DOES NOT CREATE A PROPERTY RIGHT OR GRANT AUTHORITY TO THE APPLICANT TO IMPINGE UPON THE RIGHTS OF OTHERS WHO MAY ALREADY HAVE AN INTEREST IN THE RIGHTS-OF-WAY.

(2) DURATION. NO PERMIT FOR CONSTRUCTION ISSUED UNDER THIS SECTION SHALL BE VALID FOR A PERIOD LONGER THAN TWELVE (12) MONTHS UNLESS CONSTRUCTION HAS ACTUALLY BEGUN WITHIN THAT PERIOD AND IS THEREAFTER DILIGENTLY PURSUED TO COMPLETION.

THE NEED FOR SMALL CELLS: MEETING CONSUMER DEMAND, ENABLING INNOVATION

CONSUMERS ARE USING INTERNET CONNECTED DEVICES AND DEMANDING MORE DATA THAN EVER BEFORE.

- Wireless data more than doubled in 2015, with 3X the data growth from 2013-2015.¹
- Today, there are an average of 13 connected devices per household.²
- By 2020, there will be 20.8 billion devices connected to the internet, generating over 20 zettabytes of data.
 - ▶ For reference, if one gigabyte is represented by the volume of an 11 oz. cup of coffee, one zettabyte would be the equivalent of the volume of the Great Wall of China.³

1
gigabyte

=



1
zettabyte

=



SMALL CELLS HELP MEET THIS INCREASING DEMAND THAT IS PUTTING IMMENSE PRESSURE ON OUR MOBILE NETWORKS.

- Small cells help to deliver increased data capacity, faster connectivity speeds and an overall better wireless experience.
- Small cells are flexible network solutions—like mini-macro cell sites—that can be readily deployed to specific locations that are heavily populated, prone to connection issues or that can't effectively be served by a traditional macro cell.
- Previous small cell trials have shown that adding 3 small cells to increase coverage of a macro cell can double the capacity available in that area.⁴
- Mobile providers will be able to provide a better experience today while preparing for the technologies of the future – such as 5G, smart cities and new developments in the Internet of Things (IoT).

Small cells will ensure that consumers have access to the connectivity they need, while ensuring mobile networks can enable innovative technologies of the future.



¹ CTIA (2015), <http://www.ctia.org/industry-data/ctia-annual-wireless-industry-survey>

² HIS Markit (June 7, 2016), <https://technology.ihs.com/579425/connected-device-market-monitor-q1-2016>

³ Gartner, <http://view.ceros.com/gartner/loUp1>

⁴ CNET (June 9, 2013), <https://www.cnet.com/news/the-carriers-not-so-secret-weapon-to-improve-cell-service/>

CB26

**Howard County**
Internal Memorandum

Subject: Council Bill No. __-2017 for Title 18.206A Public Works Rights-of-Way

To: Lonnie R. Robbins
Chief Administrative Officer

From: James M. Irvin, Director *JMI*
Department of Public Works

Date: March 22, 2017

Providers of mobile phone services and facilities are asking jurisdictions around the country to permit them to install antennas and new structures in rights-of-way. They argue that these facilities are needed to provide high speed data services to the public, and often assert a legal right to place facilities in the rights-of-way. Under this ordinance, the County will provide a way for companies to use the rights-of-way in a non-intrusive manner by placing certain wireless facilities on or in street light poles owned by the County.

The bill requires a permit for the operation, installation, maintenance and removal of certain wireless facilities on a public street light. Pursuant to the legislation, companies that provide wireless facilities or services will enter into an agreement with the County for the placement of the facility. The agreement will include fair compensation for the use of the street light, and can include specific design requirements. Nothing in the bill requires the County to issue a permit to anyone unless the proposed facility is one that is acceptable to the County, and that is safe.

The bill does not prevent companies from installing similar wireless facilities elsewhere in the rights-of-way, but it does make it clear that anyone who wishes to install wireless facilities in the rights-of-way similar to those that are permitted on street lights must obtain the permission of the Director of Public Works.

This bill is focused on street lights and is not intended to address all issues associated with placement of wireless equipment in light of changes in technology and federal regulation. This bill focuses solely on equipment used at least in part to communicate with mobile devices. However, by making street lights available, placement elsewhere may not be necessary.

If you have any questions or require any further information, please do not hesitate to contact me. Thank you for your consideration.

cc: Jennifer Sager, Legislative Coordinator
John Seefried, Chief Construction Inspection Division