

**COTTAGE CITY COMMISSION  
TOWN OF COTTAGE CITY**

**EMERGENCY ORDINANCE NO. 2019 – 02 (A)**

**AN EMERGENCY ORDINANCE AMENDING CHAPTER 8 (STREETS AND SIDEWALKS), PARTICULARLY SECTION 8-3 (STREET AND SIDEWALK REPAIRS, CONSTRUCTION AND UTILITY CUTS); BY ADDING DEFINITIONS RELATING TO WIRELESS TELECOMMUNICATIONS FACILITIES AND REQUIRING A PERMIT FOR SUCH INSTALLATIONS WITH STANDARDS FOR THEIR PLACEMENT; BY REQUIRING CERTAIN DEADLINES FOR PERMIT REVIEW CONSISTENT WITH FEDERAL LAW; BY DEFINING SUBSTANTIAL AND MINOR CHANGES TO EXISTING FACILITIES WITH CERTAIN REQUIREMENTS; BY AUTHORIZING CERTAIN FEES TO BE CHARGED FOR PERMIT APPLICATIONS AND USE OF THE RIGHT-OF-WAY; REQUIRING APPLICANTS OR USERS TO INDEMNIFY THE TOWN AND COMPLY WITH OTHER RELEVANT LAWS; AND BY MAKING OTHER GRAMMATICAL AND STYLISTIC CHANGES TO SAID SECTION OF THE TOWN CODE; AND GENERALLY RELATING TO THE REGULATION AND CONTROL OF TOWN STREETS AND SIDEWALKS.**

Introduced By: Commissioner-Chairman Davis

WHEREAS, under Section 66 of its Charter the Town of Cottage City (the “Town”) has control of all public ways in the Town except those that are under the jurisdiction of the State Highway Administration, and subject to the laws of the State of Maryland and said charter, the Town may do whatever it deems necessary to establish, operate, and maintain in good condition the public ways of the Town; and

WHEREAS, the Cottage City Commission is further authorized by Section 18(1) of its Charter with the power to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or said charter as it may deem necessary for the good government of the Town; for the protection and preservation of the Town’s property, rights, and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of and visitors in the Town; and

WHEREAS, the Town is further authorized by Section 18(2)(41) of its Charter with the authority to remove all nuisances and obstructions from the streets, lanes and alleys and from any lots adjoining thereto, or any other places within the limits of the Town; and

WHEREAS, the Cottage City Commission enacted Ordinance 2016-08 on October 12, 2016 to regulate and require permits for disturbances to the public rights-of-way including standards for cutting, excavating, altering and restoring portions of the Town’s streets and sidewalks by public utilities and other persons; and

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WHEREAS, because of technological advances and increased consumer demand for wireless broadband service, wireless telecommunications carriers are seeking to install small, short range antennas to provide customers with faster and more reliable cell service; and

WHEREAS, wireless carriers and the companies that provide infrastructure to support the wireless carriers are increasingly seeking to install antennas or small cellular base stations in public rights-of-way; and

WHEREAS, while the Prince George's County Zoning Code may regulate the installation of telecommunications antennas and support structures on private property in North Brentwood, the Town has the authority to regulate such installations in Town rights-of-way; and

WHEREAS, a recent order of the Federal Communications Commission (FCC) on siting of small cell wireless telecommunications facilities in the public right of way, among other things, went into effect on January 14, 2019; and

WHEREAS, federal law and newly promulgated rules significantly restrict local government authority to regulate the installation of telecommunications facilities and essentially requires any desired municipal regulations to be in place prior to application; and

WHEREAS, the Cottage City Commission desires to protect the public health, safety, and welfare from the adverse effects of the proliferation of telecommunications facilities to the maximum extent permissible under federal law.

## **SECTION 1.**

**NOW THEREFORE, BE IT ORDAINED AND ENACTED BY THE COTTAGE CITY COMMISSION**, that the Code of the Town of Cottage City as written herein below is hereby enacted, adopted, revised and amended such that said Code and the provisions of said Code and particularly Chapter 8 (Streets and Sidewalks) thereof shall henceforth read as follows:

\* \* \*

## **CHAPTER 8**

### **STREETS AND SIDEWALKS**

\* \* \*

#### **8-3. Street and Sidewalk Repairs, Construction, INSTALLATIONS and Utility Cuts.**

A. Adoption of County Law. The Cottage City Commission hereby adopts by reference herein the ordinance, as amended from time to time, entitled "The Road Ordinance of Prince George's County, Maryland" codified in Subtitle 23 of the Prince George's County Code, and further

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adopts herein, minimum standards for street construction and repairs applicable to PERSONS OR utility companies installing or maintaining utility facilities or improvements in the public ways as found in a document known as the “Prince George’s County Policy and Specification for Utility Installation and Maintenance,” as amended, sometimes referenced herein as the “County Specifications Manual,” ~~[attached hereto and]~~ incorporated by reference herein as Appendix A and made available for inspection at Town Hall, as well as the Prince George’s County Specifications and Standards for Roadways and Bridges, and the Md. SHA Standard Specifications for Construction and Materials. Any references to officials or agents of the County Government found in County law adopted herein shall be construed to apply to the applicable officials or agents of Town government.

B. Regulatory Scope, ~~[Definition of Utility]~~ DEFINITIONS; ~~[and]~~ INSTALLATION AND RESTORATION Standards~~[-]~~; WSSC.

1.) Except as otherwise stated in this Chapter, from and after the effective date of this Ordinance, no person, or entity including but not limited to a private or public utility company, or contractor shall grade, install, cut, construct, or re-construct any surface material, subsurface material, paving, drainage structure, curb, gutter, sidewalk, driveway entrance, retaining wall, step, EQUIPMENT, CABLE, POLE, TOWER or any other structure within the right-of-way of any public street, road, highway, avenue, lane, alley, or public way under the jurisdiction of the Town unless said person or entity shall first obtain a permit from the Town Manager or his designee, and comply with all applicable provisions of this chapter and referenced law.

2.) THE FOLLOWING DEFINITIONS APPLY TO THIS SECTION:

“ANTENNA” MEANS THAT PART OF A WIRELESS TELECOMMUNICATIONS FACILITY DESIGNED TO RADIATE OR RECEIVE RF SIGNALS OR ELECTROMAGNETIC WAVES FOR THE PROVISION OF SERVICES, INCLUDING, BUT NOT LIMITED TO, CELLULAR, PAGING, PERSONAL COMMUNICATIONS SERVICES AND MICROWAVE COMMUNICATIONS.

“COLLOCATION” MEANS THE SAME AS DEFINED BY THE FCC IN 47 C.F.R. SECTION 1.40001(B)(2), AS MAY BE AMENDED, WHICH DEFINES THAT TERM AS THE MOUNTING OR INSTALLATION OF TRANSMISSION EQUIPMENT ON AN ELIGIBLE POLE FOR THE PURPOSE OF TRANSMITTING OR RECEIVING RF SIGNALS FOR COMMUNICATIONS PURPOSES. AS AN ILLUSTRATION AND NOT A LIMITATION, THE FCC’S DEFINITION EFFECTIVELY MEANS “TO ADD” AND DOES NOT NECESSARILY REFER TO MORE THAN ONE WIRELESS TELECOMMUNICATION FACILITY INSTALLED AT A SINGLE SITE.

“COMMUNICATIONS FACILITY” MEANS, COLLECTIVELY, THE EQUIPMENT AT A FIXED LOCATION OR LOCATIONS WITHIN A TOWN RIGHT-OF-WAY THAT ENABLES COMMUNICATIONS SERVICES, INCLUDING: (I) RADIO TRANSCEIVERS, ANTENNAS, COAXIAL, FIBER-OPTIC OR OTHER CABLING, POWER SUPPLY,

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BACKUP BATTERY, AND COMPARABLE EQUIPMENT, REGARDLESS OF TECHNOLOGICAL CONFIGURATION; AND (II) ALL OTHER EQUIPMENT ASSOCIATED WITH ANY OF THE FOREGOING. A COMMUNICATIONS FACILITY DOES NOT INCLUDE THE POLE, TOWER OR SUPPORT STRUCTURE TO WHICH THE EQUIPMENT IS ATTACHED.

“COMMUNICATIONS SUPPORT STRUCTURE” MEANS A POLE LOCATED IN THE TOWN RIGHT-OF-WAY OR PROPOSED TO REPLACE AN EXISTING POLE IN THE RIGHT-OF-WAY TO WHICH COMMUNICATIONS FACILITIES, SUCH AS SMALL CELLS OR OTHER COMMUNICATIONS FACILITIES, ARE ATTACHED OR PROPOSED OR INTENDED TO BE ATTACHED.

“FCC” MEANS THE FEDERAL COMMUNICATIONS COMMISSION.

“INVESTOR-OWNED UTILITY POLE” MEANS A UTILITY POLE THAT IS NOT OWNED BY THE TOWN.

“PERMITTEE” MEANS THE PERSON THAT RECEIVES A PERMIT TO WORK IN OR INSTALL FACILITIES, EQUIPMENT OR STRUCTURES IN THE RIGHT OF WAY UNDER THIS CHAPTER AND THE PERSON THAT OWNS FACILITIES, EQUIPMENT OR STRUCTURES PERMITTED TO BE INSTALLED UNDER THIS CHAPTER, INCLUDING THE PERMITTEE’S OFFICIALS, EMPLOYEES, AGENTS, AND CONTRACTORS.

“POLE” MEANS A SINGLE SHAFT OF WOOD, STEEL, CONCRETE, OR OTHER MATERIAL TYPICALLY AT LEAST 26 FEET TALL AND CAPABLE OF SUPPORTING THE EQUIPMENT MOUNTED THEREON IN A SAFE AND ADEQUATE MANNER, INCLUDING AN INVESTOR-OWNED UTILITY POLE.

“RF” MEANS RADIO FREQUENCY OR ELECTROMAGNETIC WAVES BETWEEN 30 KHZ AND 300 GHZ IN THE ELECTROMAGNETIC SPECTRUM RANGE.

“SUBSTANTIAL CHANGE” MEANS THE SAME AS DEFINED BY THE FCC IN 47 C.F.R. § 1.40001(B)(7), AS MAY BE AMENDED, AND AS APPLICABLE TO FACILITIES IN THE PUBLIC RIGHT-OF-WAY, WHICH DEFINES THAT TERM AS A COLLOCATION OR MODIFICATION THAT:

(A.) INCREASES THE OVERALL HEIGHT MORE THAN 10% OR 10 FEET (WHICHEVER IS GREATER);

(B.) INCREASES THE WIDTH MORE THAN 6 FEET FROM THE EDGE OF THE COMMUNICATIONS STRUCTURE;

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(C.) INVOLVES THE PLACEMENT OF ANY NEW ENCLOSURES ON THE GROUND WHEN THERE ARE NO EXISTING GROUND-MOUNTED ENCLOSURES;

(D.) INVOLVES THE PLACEMENT OF ANY NEW GROUND-MOUNTED ENCLOSURES THAT ARE TEN PERCENT (10%) LARGER IN HEIGHT OR VOLUME THAN ANY EXISTING GROUND-MOUNTED ENCLOSURES;

(E.) INVOLVES EXCAVATION OR DEPLOYMENT OF EQUIPMENT OUTSIDE THE AREA IN PROXIMITY TO THE INSTALLATION AND OTHER WIRELESS COMMUNICATIONS EQUIPMENT ALREADY DEPLOYED ON THE GROUND;

(F.) WOULD DEFEAT THE EXISTING CONCEALMENT ELEMENTS OF THE COMMUNICATIONS SUPPORT STRUCTURE AS DETERMINED BY ANY UNIFORM GUIDELINES PROMULGATED BY THE COMMISSION OR THE TOWN MANAGER OR HER DESIGNEE; OR

(G.) VIOLATES A PRIOR CONDITION OF APPROVAL OF A PERMIT FOR THE SITE.

[A utility is defined as] "UTILITY" MEANS an organization franchised by the TOWN, County or State government or otherwise authorized by law to install, operate and maintain facilities in public rights-of-way for the purpose of distribution of fuel or energy, for communication, or the distribution of a public water supply and collection and conveyance of sanitary sewage or storm water.

3.) The technical standards for acceptable temporary and permanent utility patching in flexible asphalt pavement shall be the same as those found in Standards 300.18 and 300.19, along with the mill and overlay requirements for roadways under the 5-year moratorium period, Attachment 6, as published in the County Specifications Manual.

4.) COMMUNICATIONS STRUCTURES OR FACILITIES. A PERMIT SHALL NOT BE ISSUED FOR A PROPOSED STRUCTURE OR FACILITY WHEN THE LOCATION SELECTED IN THE APPLICATION IS IN AN AREA WHERE THERE IS AN OVERCONCENTRATION OF STRUCTURES OR FACILITIES IN, ON OR OVER THE RIGHT-OF-WAY, AS DETERMINED BY THE TOWN MANAGER OR HER DESIGNEE OR IN THE TOWN MANAGER'S OR HER DESIGNEE'S REASONABLE DISCRETION AND JUDGMENT. ANY POLE, EQUIPMENT BOX, OR OTHER STRUCTURE INSTALLED IN A TOWN RIGHT-OF-WAY MUST:

(A.) COMPLY WITH ALL STRUCTURAL AND SAFETY STANDARDS SPECIFIED IN THIS CHAPTER AND BY THE TOWN MANAGER IN THE PERMIT CONDITIONS OR ANY UNIFORM GUIDELINES PROMULGATED BY THE COTTAGE CITY COMMISSION BY RESOLUTION;

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(B.) NOT OBSTRUCT PEDESTRIAN OR VEHICULAR TRAFFIC FLOW OR SIGHT LINES;

(C.) COMPLY WITH THE AMERICANS WITH DISABILITIES ACT;

(D.) IF A POLE, BE AT LEAST 26 FEET IN HEIGHT OR COMPARABLE HEIGHT WITH EXISTING UTILITY POLES, BUT NOT EXCEED 50 FEET ABOVE GROUND LEVEL;

(E.) IF A REPLACEMENT OF AN EXISTING POLE, NOT EXCEED THE HEIGHT OF THE EXISTING POLE BY MORE THAN 10 FEET;

(F.) IF AN EQUIPMENT BOX (GROUND MOUNTED), NOT EXCEED A SIZE OF 28 CUBIC FEET AND, IF LOCATED IN THE FLOODPLAIN, SHALL BE ELEVATED ON PLATFORMS, AND SUBJECT TO OTHER PLACEMENT REQUIREMENTS ESTABLISHED BY THE TOWN MANAGER IN THE PERMIT CONDITONS OR ANY UNIFORM GUIDELINES PROMULGATED BY THE COTTAGE CITY COMMISISON BY RESOLUTION;

(G.) NOT OBSTRUCT PARKING, INCLUDING PREVENTING PERSONS FROM ENTERING AND EXITING VEHICLES PARKED IN THE RIGHT-OF-WAY AND IN SUCH MANNER THAT WILL NOT INTERFERE WITH THE USE OF OTHER PROPERTY;

(H.) HAVE A COLOR AND FINISH DETERMINED IN CONSULTATION WITH THE TOWN MANAGER OR HER DESIGNEE OR ANY UNIFORM GUIDELINES PROMULGATED BY THE COTTAGE CITY COMMISSION BY RESOLUTION TO MINIMIZE VISUAL IMPACT TO THE NEIGHBORHOOD, TAKING INTO CONSIDERATION ANY HISTORIC AREA OR SITE DESIGNATIONS; AND

(I.) COMPLY WITH SUCH OTHER REQUIREMENTS AND CONDITIONS AS THE TOWN MANAGER MAY DETERMINE ARE APPROPRIATE. IN THE EVENT THAT STRICT COMPLIANCE WITH ANY PROVISION OF THIS CHAPTER OR ANY UNIFORM GUIDELINES PROMULGATED BY THE COUNCIL, AS APPLIED TO A SPECIFIC PROPOSED COMMUNICATIONS FACILITY OR STRUCTURE, WOULD EFFECTIVELY PROHIBIT THE PROVISION OF SERVICES, THE TOWN MANAGER MAY GRANT A LIMITED, ONE-TIME EXEMPTION FROM STRICT COMPLIANCE. COMMUNICATIONS FACILITIES AND SUPPORT STRUCTURES, WIRES, CABLES, FIXTURES, AND OTHER EQUIPMENT SHALL BE INSTALLED AND MAINTAINED IN SUBSTANTIAL COMPLIANCE WITH THE REQUIREMENTS OF THE NATIONAL ELECTRIC CODE, AND ALL FCC, STATE, AND LOCAL REGULATIONS.

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5.) ANTENNAE AND OTHER ATTACHMENTS. NO PERSON SHALL INSTALL ANY ATTACHMENT TO A POLE OR OTHER STRUCTURE IN THE TOWN RIGHT-OF-WAY WITHOUT FIRST OBTAINING A PERMIT FROM THE TOWN. ALL ATTACHMENTS TO STRUCTURES IN THE TOWN RIGHT-OF-WAY MUST:

(A.) FOR EACH POLE, HAVE AN EQUIPMENT BOX (POLE MOUNTED) OR BOXES NO GREATER IN COLLECTIVE SIZE THAN SIX (6) CUBIC FEET IN VOLUME OR THE VOLUME ESTABLISHED BY THE TOWN MANAGER OR DESIGNEE OR ANY UNIFORM GUIDELINES PROMULGATED BY THE COTTAGE CITY COMMISSION BY RESOLUTION;

(B.) HAVE A COLOR AND FINISH DETERMINED IN CONSULTATION WITH THE TOWN MANAGER OR HER DESIGNEE TO MINIMIZE VISUAL IMPACT TO THE NEIGHBORHOOD, TAKING INTO CONSIDERATION HISTORIC AREA OR SITE DESIGNATIONS;

(C.) IF AN ANTENNA, BE ATTACHED TO AN EXISTING POLE OR REPLACEMENT POLE AND BE DEMONSTRATED TO BE THE LEAST VISIBLE ANTENNA POSSIBLE TO ACCOMPLISH THE COVERAGE OBJECTIVES AND BE SCREENED, SHROUDED, OR CONCEALED, OR TREATED TO MINIMIZE VISUAL AND ACOUSTIC IMPACT, AS DETERMINED IN CONSULTATION WITH THE TOWN MANAGER OR HER DESIGNEE, TAKING INTO CONSIDERATION ANY HISTORIC AREA OR SITE DESIGNATIONS OR ANY COTTAGE CITY COMMISSION PROMULGATED GUIDELINES. ANTENNA ELEMENTS SHALL BE FLUSH MOUNTED, TO THE EXTENT REASONABLY FEASIBLE. ALL ANTENNA MOUNTS SHALL BE DESIGNED SO AS NOT TO PRECLUDE POSSIBLE FUTURE COLLOCATION BY THE SAME OR OTHER OPERATORS OR CARRIERS. ANTENNAS SHALL BE SITUATED SO AS TO REDUCE VISUAL AND ACOUSTIC IMPACT WITHOUT COMPROMISING THEIR FUNCTION.

(D.) COMPLY WITH SUCH OTHER REQUIREMENTS AND CONDITIONS AS THE TOWN MANAGER OR HER DESIGNEE MAY DETERMINE ARE NECESSARY AND APPROPRIATE. ALL WIRES, CABLES, FIXTURES, AND OTHER EQUIPMENT SHALL BE INSTALLED AND MAINTAINED IN SUBSTANTIAL COMPLIANCE WITH THE REQUIREMENTS OF THE NATIONAL ELECTRIC CODE, AND ALL FCC, STATE, AND LOCAL REGULATIONS.

[4.])6.) Pursuant to Section 27-101 et seq. of the Md. Public Utilities Article of the State Code, the Washington Suburban Sanitary Commission ("WSSC"), as a State agency, is generally considered exempt from this Section; however, WSSC is required by statute to repair and leave the public roadway in the same or a superior condition to that existing before the public roadway was disturbed and furthermore to pay all costs for returning the public roadway to the same or superior condition.

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C. COMPLETION AND Acceptance of Improvements, INSTALLATIONS or Repairs. UNLESS OTHERWISE STATED IN THIS CHAPTER, WORK PERMITTED IN AN APPROVED PERMIT SHALL BE COMPLETED WITHIN 120 DAYS OR THE PERMIT LAPSES. Upon completion, any construction, improvements, repairs, INSTALLATIONS or other activity as certified by the Town as being in full compliance with this [~~Ordinance~~] CHAPTER and the County Specifications Manual, AS APPLICABLE, and notification thereof to the Town, the road, sidewalk, or whatever work was performed in the right-of-way shall be deemed to be accepted for maintenance by the Town from and after the acceptance date. PRIVATELY-OWNED EQUIPMENT, INVESTOR-OWNED UTILITY POLES OR OTHER PUBLIC ENTITY-OWNED INFRASTRUCTURE INCLUDING COMMUNICATIONS SUPPORT STRUCTURES OR FACILITIES SHALL NOT BE ACCEPTED FOR MAINTENANCE BY THE TOWN.

D. Permit Required, Fees, Application Forms, REVIEW DEADLINES and Records.

1.) A permit as required by this Section obtained from the Town Manager or his designee may be issued, the regulatory fees for which shall be established herein or amended by the Commission by written resolution adopted from time to time. Any applicant obtaining a Town construction permit involving abutting real property, in addition to any permits required of this Section, shall receive a credit for any additional permits issued under this Section.

2.) Unless the Commission establishes such fees or fee schedule by resolution, all applicable fees found in County law as incorporated herein shall be comparable to or shall be calculated pursuant to the applicable County provision or County Specifications Manual using the Town's version of the Utility Permit Fee Calculation Sheet, which is a modified attachment of said County Specifications Manual. EXCEPT AS PROVIDED FOR IN SUBSECTION E. FOR COMMUNICATIONS FACILITIES AND STRUCTURES, [~~The~~] THE various permit fees are initially established as follows:

(a.) Special Utility Permit Fee – This permit typically covers completely new utility pipeline or facility construction and includes an administrative and inspection fee, a moratorium fee, if applicable, and any required engineering fee as follows:

- (I) Administrative and Inspection Fee – A \$250.00 flat or lump sum fee, plus \$2.00 per linear feet of installed utility within the paved area, \$.50 per linear feet for underground work outside the improved roadway, or plus \$.20 per liner feet for aerial utility facility installations;
- (II) Moratorium or Impact Fee - \$10.00 per linear foot of roadway cut paid for disturbance of streets less than five years old since paving; and
- (III) Engineering Fees – A variable lump sum as described in Subsection [~~F~~] G.

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(b.) Maintenance Utility Permit Fee – This permit typically covers routine maintenance or repairs of existing facilities, which may be paid upon issuance or on a quarterly or other periodic basis in the form of an escrow account, and includes an application and processing fee, an administration and inspection fee, and any engineering fees as follows:

- (I) Application and Processing Fee - \$250.00;
- (II) Administrative and Inspection Fee - \$125 for small cuts (i.e., < 100 Sq. Ft.), \$300 for large cuts including other fees as further described in Section 3.3.2 of the County Specifications Manual; and
- (III) Engineering fees – A variable lump sum as described in Subsection [F] G.

(c.) Extension fee – The special utility permit shall be issued for a standard duration of 90 calendar days. A \$100.00 fee shall be paid to extend the duration of a special utility permit.

3.) Any forms, applications, form letters, schedules, documents, worksheets, templates, or permit fee calculation sheets prepared or used by the County Government pursuant to County law, as incorporated by reference in this Section, may be modified for use by an applicant, subject to further modification and approval by the Town for conformity to this Section, when applying for any permits required by this Section. THE PERMIT APPLICATION MAY INCLUDE AND REQUIRE ANY ADDITIONAL DATA AND DETAIL REQUIRED BY ANY UNIFORM GUIDELINES PROMULGATED BY THE COTTAGE CITY COMMISSION BY RESOLUTION, OR AS REQUIRED BY THE TOWN MANAGER OR HIS OR HER DESIGNEE.

4.) The Town Manager or his OR HER designee shall obtain and maintain photographs of the proposed and finished work areas in order to document the before and after condition of the effected municipal property. These photographs shall be maintained by the Town records custodian with the permit file pursuant to the Town's approved records retention schedule.

5.) AN APPLICANT MAY BE REQUIRED TO OBTAIN MULTIPLE PERMITS (E.G., A SPECIAL OR MAINTENANCE UTILITY PERMIT TO DIG IN THE RIGHT OF WAY AND A COMMUNICATIONS FACILITIES OR COMMUNICATIONS SUPPORT STRUCTURES PERMIT TO INSTALL AND OPERATE A SMALL CELL) ISSUED UNDER THIS CHAPTER DEPENDING ON THE SCOPE OF THE INSTALLATION OR DISTURBANCE TO THE RIGHT OF WAY.

6.) NOTWITHSTANDING ANYTHING IN THIS SECTION TO THE CONTRARY, PERMIT APPLICATIONS INCLUDING COMMUNICATIONS FACILITIES OR COMMUNICATIONS SUPPORT STRUCTURES SHALL BE REVIEWED AND A DECISION RENDERED ACCORDING TO THE FOLLOWING TIME PERIODS, OR "SHOT CLOCKS" AS REQUIRED BY FEDERAL LAW:

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(A.) MINOR CHANGE APPLICATIONS (I.E., COLLOCATE SMALL CELL INFRASTRUCTURE ON AN EXISTING POLE) SHALL BE REVIEWED AND RENDERED WITHIN 60 DAYS OF THE DATE OF FILING.

(B.) SUBSTANTIAL CHANGE APPLICATIONS (I.E., PLACE SMALL CELL INFRASTRUCTURE ON A NEWLY INSTALLED POLE) SHALL BE REVIEWED AND RENDERED WITHIN 90 DAYS OF THE DATE OF FILING.

E. FEES CHARGED FOR PERMIT APPLICATIONS FOR COMMUNICATIONS FACILITIES OR COMMUNICATIONS SUPPORT STRUCTURES SHALL BE AS FOLLOWS:

1.) AN INITIAL NON-RECURRING FEE OF \$500 FOR A SINGLE UP-FRONT APPLICATION THAT INCLUDES UP TO FIVE (5) COMMUNICATIONS FACILITIES (E.G., COLLOCATED SMALL CELLS), WITH AN ADDITIONAL \$100 FOR EACH COMMUNICATIONS FACILITY ADDED BEYOND FIVE (5), AND

2.) A NON-RECURRING FEE OF \$1,000 FOR A NEW OR EXTENDED COMMUNICATIONS SUPPORT STRUCTURE OR POLE (I.E., NOT A COLLOCATION) INTENDED TO SUPPORT ONE OR MORE COMMUNICATIONS FACILITY; AND

3.) A RECURRING ANNUAL FEE OF \$270 PER COMMUNICATIONS FACILITY (E.G., A COMMUNICATIONS SUPPORT FACILITY HAVING FIVE COLLOCATED (5) SMALL CELLS OR ANTENNAE INCURS A \$1,350 ANNUAL FEE) PER YEAR TO COVER PERMITTED ACCESS TO THE RIGHT OF WAY ("ROW") OR ACCESS INCLUDING THE ATTACHMENT TO TOWN-OWNED STRUCTURES LOCATED IN THE R.O.W. A PERMITTEE WHO ALLOWS OR AGREES TO COLLOCATION ON OR WITHIN ITS COMMUNICATIONS SUPPORT FACILITY LOCATED IN THE TOWN R.O.W. BY ANOTHER PERSON, CONTRACTOR, OR LESSEE SHALL NOTIFY THE TOWN AND SAID OTHER PERSON OR ENTITY SHALL MAKE APPLICATION FOR A PERMIT UNDER THIS ORDINANCE. THE TOWN MAY REQUIRE A SEPARATE FRANCHISE OR RIGHT-OF-WAY USE AGREEMENT IN LIEU OF THE RECURRING ANNUAL FEE PROVIDED FOR IN THIS SUBSECTION.

~~[E.]~~ F. Authority to Hire Town Engineer to Supervise or Inspect Street Improvements. The Town Manager is authorized to employ the services of an engineer for purposes of supervising or inspecting any street improvements OR INSTALLATIONS described in this Section, and may require as a condition of granting a permit under this Section that all street improvements OR INSTALLATIONS be subject to the supervision or inspection of the Town's designated engineer.

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[F.] G. Engineering fee. In making application for authorization and a permit as provided in this section, the applicant shall designate whether or not the work will be performed under the supervision of his own licensed engineer. If the applicant has the service of his own engineer, he shall, in addition, pay to the Town the sum of three percent (3%) of the total cost of such improvements to cover the actual expense of inspection of the improvements by the Town. If the applicant does not have the services of an engineer, he shall pay to the Town the sum of six percent (6%) of the total cost of such improvements to cover the expense of preparing plans and specifications and for supervision and inspection of the improvements by the Town. Any surplus or unused balance of this fee shall be refunded to the applicant once the project is certified and accepted by the Town. Should the Town incur additional costs for engineering services exceeding the amounts stated herein, the Town Manager may invoice the permittee after giving reasonable notice and an opportunity to alter the extent of its maintenance project or improvements, if practical. These fee requirements are in addition to the various permit fees established by this Section and which altogether or in part may be waived or modified by the Commission by written resolution, or motion recorded in the journal.

[G.] H. Sunday and Holiday Work

1.) No work shall be permitted on Sunday, except in cases of emergency, and then only to such extent as it is absolutely necessary and with written permission of the Town Manager. The permit holder shall not be permitted to work on any days which are legal Town holidays as designated by the Commission, unless granted permission by the Town Manager. If a permittee desires to work on any such legal holidays, permission shall be sought from the Town Manager in writing at least three (3) days in advance of such holiday. The request shall state the place where such work is to be conducted.

2.) Work hours. No work shall be performed after 6:00 p.m. or before 7:00 a.m. Without prior written approval by the Town Manager.

[H.] I. Responsibility for Damages; INDEMNIFICATION, COMPLIANCE; INSTALLATION REMOVALS.

1.) The permit holder shall assume all responsibility for damages sustained to persons or property due to the carrying on of his work, and shall be responsible for all accidents to persons and property, saving the Town harmless from all damages resulting from any accidents which may occur to the construction operations. The permittee is responsible for the repairs of damages prior to release of any applicable bond. If the Town is made a party to any action because of the granting of a permit to the permit holder, the permit holder shall be required to pay all costs and fees incurred by the Town, including the legal fees of the Town Attorney or other legal counsel.

2.) ANY OPERATOR, OWNER OR PERMITEE WHO OWNS OR OPERATES COMMUNICATIONS FACILITIES OR COMMUNICATIONS SUPPORT STRUCTURES IN THE RIGHT OF WAY SHALL INDEMNIFY, PROTECT, DEFEND, AND HOLD THE TOWN AND ITS ELECTED OFFICIALS, OFFICERS, EMPLOYEES, AGENTS, AND

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VOLUNTEERS HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS, LIENS, LOSSES, EXPENSES, FEES TO INCLUDE REASONABLE ATTORNEY FEES AND COSTS OF DEFENSE, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING PERSONAL OR BODILY INJURY OR DEATH, PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, TO THE EXTENT THAT IT IS CAUSED BY THE NEGLIGENCE OF THE OPERATOR WHO OWNS OR OPERATES COMMUNICATIONS FACILITIES AND COMMUNICATIONS SUPPORT SERVICES IN THE RIGHT OF WAY, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, AFFILIATE, OR SUBCONTRACTOR OF THE OPERATOR, OR THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS, OR REPRESENTATIVES WHILE INSTALLING, REPAIRING, OR MAINTAINING FACILITIES IN THE RIGHT OF WAY.

3.) ANYTHING INSTALLED IN THE TOWN RIGHT-OF-WAY WITHOUT A PERMIT OR IN VIOLATION OF THE TERMS AND CONDITIONS OF A PERMIT OR OTHERWISE IS ABANDONED SHALL BE REMOVED UPON DEMAND BY THE TOWN, AND THE TOWN SHALL HAVE THE AUTHORITY TO REMOVE THE INSTALLATION OR STRUCTURE AND RESTORE THE RIGHT-OF-WAY AND CHARGE THE COST OF THE REMOVAL AND RESTORATION TO THE PERSON THAT CAUSED THE INSTALLATION OR DISTURBANCE.

4.) IF APPLICABLE STATE, COUNTY OR FEDERAL STANDARDS AND REGULATIONS ARE AMENDED, THE OWNERS OF A COMMUNICATIONS FACILITY, OR COMMUNICATIONS SUPPORT STRUCTURE GOVERNED BY THIS CHAPTER SHALL BRING ANY FACILITIES AND/OR STRUCTURES INTO COMPLIANCE WITH THE REVISED STANDARDS AND REGULATIONS WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THE STANDARDS AND REGULATIONS, UNLESS A DIFFERENT COMPLIANCE SCHEDULE IS MANDATED BY THE REGULATING AGENCY. FAILURE TO BRING FACILITIES AND/OR COMMUNICATIONS SUPPORT STRUCTURES INTO COMPLIANCE WITH ANY REVISED STANDARDS AND REGULATIONS SHALL CONSTITUTE GROUNDS FOR REMOVAL AT THE OWNER'S EXPENSE.

5.) THE OPERATOR, OWNER OR PERMITEE SHALL REMOVE AND RELOCATE THE PERMITTED IMPROVEMENTS, INFRASTRUCTURE, COMMUNICATIONS FACILITY AND/OR SUPPORT STRUCTURE AT THE OPERATOR'S SOLE EXPENSE TO ACCOMMODATE CONSTRUCTION OF A PUBLIC IMPROVEMENT PROJECT BY OR FOR THE TOWN.

[I.]J. Compliance with Safety Requirements of the Town Manager

\* \* \*

L. Penalties for Violation.

CAPITALS	:	Indicate matter added to existing law	Page 12 of 14
[Brackets]	:	Indicate matter deleted from existing law	
Asterisks * * *	:	Indicate that text is retained from existing law but omitted herein.	

\* \* \*

M. Administrative and Judicial Review.

(a.) A decision of the Town Manager or other official of the Town under this Article may be appealed for error to the Cottage City Commission.

(b.) Except as stated herein, any person aggrieved by a decision of the Cottage City Commission with regard to an application for a permit filed under the provisions of this Section and who appeared before the [~~Town Council~~] COTTAGE CITY COMMISSION in person, by an attorney, or in writing, shall have the right to appeal the decision of the Commission to the Circuit Court for Prince George's County, Maryland under the provisions of Title 7, Chapter 200 of the Maryland Rules of Procedure.

(c.) Denial of a refund of any fee paid to the Town as required by this Chapter may be appealed pursuant to Title 13 of the Tax-General Article of the Annotated Code of Maryland to the Maryland Tax Court.

(D.) THE TOWN SHALL ADVISE THE APPLICANT IN WRITING OF ITS FINAL DECISION SUPPORTED BY SUBSTANTIAL EVIDENCE, FINDINGS AND CONCLUSIONS OF LAW.

(E.) THE PROVISIONS OF THIS SECTION ARE DECLARED SEPARATE AND SEVERABLE. IF ANY CLAUSE, SENTENCE, PARAGRAPH, SUBDIVISION, OR PORTION OF THIS SECTION OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD TO BE INVALID, IT SHALL NOT AFFECT THE VALIDITY OF THE REMAINDER OF THIS SECTION OR THE VALIDITY OF ITS APPLICATION TO OTHER PERSONS OR CIRCUMSTANCES.

**SECTION 2.**

**AND BE IT FURTHER ORDAINED AND ENACTED**, that this Emergency Ordinance shall be codified and included within the Code of the Town of Cottage City, and the codification provider as an agent of the Town shall be authorized to make any non-substantive changes including renumbering paragraphs as corrections to this Emergency Ordinance.

**SECTION 3.**

**AND BE IT FURTHER ORDAINED AND ENACTED**, that this Emergency Ordinance shall become effective immediately following its passage.

**SECTION 4.**

CAPITALS	:	Indicate matter added to existing law	Page 13 of 14
[Brackets]	:	Indicate matter deleted from existing law	
Asterisks * * *	:	Indicate that text is retained from existing law but omitted herein.	

**AND BE IT FURTHER ORDAINED AND ENACTED**, that a fair summary of this Ordinance shall be published at least once within ten days after the date of passage in a newspaper or newspapers having general circulation in the Town.

**SECTION 5.**

**AND BE IT FURTHER ORDAINED AND ENACTED**, that the Commissioner-Chairman shall be authorized to sign this Emergency Ordinance on behalf of the Commission.

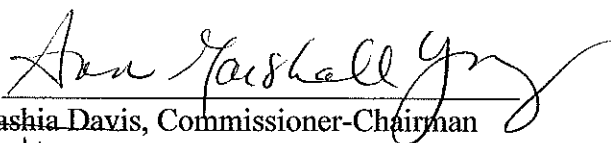
**HAVING BEEN INTRODUCED AND HAVING BEEN READ** as an emergency ordinance and passed by a yea and nay vote of the Cottage City Commission with the affirmative votes of at least four members of the members elected to the legislative body as indicated below at a Public Meeting of the Town of Cottage City held on this 13<sup>th</sup> day of March 2019, at 7 o'clock p.m., in the Town Hall in Cottage City, Maryland.

**I HEREBY CERTIFY** that the above Emergency Ordinance No. 2019 – 02 was passed by the required yea and nay votes of the Cottage City Commission on the 13<sup>th</sup> day of March 2019.

ATTEST:


TOWN OF COTTAGE CITY, MARYLAND

  
Consuella Barbour, Town Manager

By:   
~~Natashia Davis~~, Commissioner-Chairman  
Ann Marshall Young

**CERTIFICATION**

I, HEREBY CERTIFY, as the duly appointed Town Manager of the Town of Cottage City, Maryland, that on the 13<sup>th</sup> day of March 2019 with 4 Aye votes and 0 Nay votes, the aforesaid Emergency Ordinance 2019-02 passed.

  
Consuella Barbour, Town Manager

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[Brackets]	:	Indicate matter deleted from existing law	
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