

**TOWN COUNCIL OF CENTREVILLE
ORDINANCE NO 03-2019**

AN ORDINANCE OF THE TOWN COUNCIL OF CENTREVILLE AMENDING THE TOWN OF CENTREVILLE ZONING ORDINANCE, WHICH IS CHAPTER 170 OF THE TOWN CODE, TO ADD DEFINITIONS FOR SMALL CELL FACILITY AND TELECOMMUNICATIONS TOWER, TO AMEND THE DISTRICT STANDARDS TO ALLOW SMALL CELL FACILITIES AS AN ACCESSORY USE IN ALL ZONING DISTRICTS AND TO ALLOW THE USE TELECOMMUNICATIONS TOWER IN THE LIGHT INDUSTRIAL (I) AND PLANNED BUSINESS DISTRICT (PBD), AND TO ESTABLISH STANDARDS FOR THE USES SMALL CELL FACILITY AND TELECOMMUNICATIONS TOWER

WHEREAS, the Town Council has the authority under Section 5-213 of the Local Government Article of the Annotated Code of Maryland, to adopt zoning regulations;

WHEREAS, Section 4-102(6) of the Land Use Article of the Annotated Code of Maryland authorizes the Town Council of Centreville to regulate the location and use of buildings, signs and structures on the land;

WHEREAS, Section 170-62 of the Code of the Town of Centreville provides for amendments to the regulations, restrictions and boundaries set forth in Chapter 170 of the Code;

WHEREAS, the Town intends to regulate the installation and establishment of small cell facilities which are to be located in the public road, public right-of-way or in public utility easements through Article III of Chapter 134 of the Code of the Town of Centreville;

WHEREAS, the Town finds that the zoning authority is the best means for regulating the installation and establishment of Small Cell Facilities and Telecommunications Towers on public and private property;

WHEREAS, the Town Council received a favorable recommendation on the zoning amendment from the Centreville Planning and Zoning Commission; and

WHEREAS, the Town Council held a public hearing on the zoning amendment on March 21, 2019.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Centreville:

Section 1. The recitals set forth above are incorporated herein by reference and made a part of this Ordinance.

Section 2. Section 170-68 Definitions of the Centreville Town Code is hereby amended to add the following definitions:

SMALL CELL FACILITY

A facility designed to provide wireless voice, data and/or image transmission in concentrated areas that meets both of the following qualifications:

- A. Each antenna could fit within an enclosure of no more than three (3) cubic feet in volume; and*
- B. All other wireless equipment associated with the facility is cumulatively no more than twenty-eight (28) cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.*

TELECOMMUNICATIONS TOWER

A tower, pole, or similar structure of any size which supports wireless telecommunication equipment, transmission or reception, and is utilized by commercial, governmental, or other public or quasi-public users, above ground in a fixed location, free-standing, guyed, or on a structure for the purpose of providing wireless voice, data and image transmission within a designated service area. This definition does not include communication towers for amateur radio operators licensed by the Federal Communications Commission (FCC), which are exempt from local zoning restrictions.

Section 3. Section 170-19.B of the Centreville Town Code (Accessory Uses in the Residential District R-1) is hereby amended to add a new paragraph (7) to read as follows:

- (7) Small Cell Facility provided it complies with the standards set forth in Section 170-50:*

Section 4. Section 170-20.B of the Centreville Town Code (Accessory Uses in the Residential District R-2) is hereby amended to add a new paragraph (6) to read as follows:

- (6) Small Cell Facility provided it complies with the standards set forth in Section 170-50:*

Section 5. Section 170-22.C of the Centreville Town Code (Accessory Uses in the Central Business District CBD) is hereby amended to add a new paragraph C to read as follows:

- C. ~~Accessory uses and structures shall be those clearly incidental and customary to and associated with the permitted use. All accessory uses and structures shall~~ **Accessory uses and structures.** *The following accessory uses and structures shall be located in the rear yard, unless otherwise provided herein or attached to or part of the main building:**

- (1) Small Cell Facility provided it complies with the standards set forth in Section 170-50:*

(2) Other accessory uses and structures clearly incidental and customary to and associated with the permitted uses.

Section 6. Section 170-23.B of the Centreville Town Code (Accessory Uses in the General Commercial District C-2) is hereby amended to add a new paragraph (3) to read as follows:

(3) Small Cell Facility provided it complies with the standards set forth in Section 170-50:

Section 7. Section 170-24.B of the Centreville Town Code (Accessory Uses in the Intense Commercial District C-3) is hereby amended to add a new paragraph (2) to read as follows:

(2) Small Cell Facility provided it complies with the standards set forth in Section 170-50:

Section 8. Section 170-25.B of the Centreville Town Code (Accessory Uses in the Light Industrial District I) is hereby amended to add a new paragraph (3) to read as follows:

(3) Small Cell Facility provided it complies with the standards set forth in Section 170-50:

Section 9. Section 170-28.B of the Centreville Town Code is hereby amended to add a new paragraph (12) to read as follows:

(12) Accessory uses and structures. The following accessory uses and structures shall be located in the rear yard, unless otherwise provided herein or attached to or part of the main building:

(a) Small Cell Facility provided it complies with the standards set forth in Section 170-50:

(b) Other accessory uses and structures clearly incidental and customary to and associated with the permitted uses.

Section 10. Section 170-29.E of the Centreville Town Code is hereby amended to add a new paragraph (4) to read as follows:

(4) Permitted accessory uses and structures:

(a) Permitted accessory uses and structures shall be uses and structures which are customarily accessory and clearly incidental and subordinate to permitted principal uses and structures, provided that no accessory building shall be constructed until construction of the principal building is completed and in use.

(b) Small Cell Facility provided it complies with the standards set forth in Section 170-50.

Section 11. Section 170-25.C of the Centreville Town Code (Special Exception Uses in the Light Industrial District I) is hereby amended to add a new paragraph (5) to read as follows:

(5) Telecommunications Tower provided it complies with the standards set forth in Section 170-51:

Section 14. Section 170-29.F(5) of the Centreville Town Code (Special Exception Uses in the Planned Business District PBD) is hereby amended to add a new paragraph (b) to read as follows:

(b) Telecommunications Tower provided it complies with the standards set forth in Section 170-51:

Section 15. Article IV Supplemental Zone Regulations of Chapter 170 of the Centreville Town Code is hereby amended to add a new Section 170-50 to read as follows:

§ 170-50. Small Cell Facility.

- A. Small Cell Facilities may be installed on an existing building or rooftop of such building provided it is integrated into the design and color of the building. Installations mounted on buildings or rooftops shall be oriented to limit visibility from the street without compromising the functionality of the installation, including screening, stealthing, or camouflaging where appropriate. For building and rooftop installations, the equipment cabinet may be mounted inside the building, on the rooftop, on the building, or on the ground provided it is either screened from view or integrated into the design and color of the building. Installations shall not be installed on single family attached, single family detached, two family, duplex, multi-family, or semi-detached homes, nor installed any closer than fifty (50) feet from such structures.*
- B. Small Cell Facilities may be installed on freestanding light poles or other poles on private property. Any installation within a public road, public right-of-way or public utility easement shall be subject to the provisions set forth in Article III of Chapter 134 of the Code of the Town of Centreville. For any proposed installation on an existing pole, the applicant shall provide evidence that the pole has adequate structural capacity to carry the additional loading from the proposed installation. If located on a new or existing pole, such pole may not exceed a height of: fifty (50) feet in an industrial zoning district, twenty (20) feet in a residential zoning district, and thirty (30) feet in any commercial or any other zoning district.*
- C. On any lot in a residential zoning district, a pole mounted installation shall to the fullest extent possible be setback from view from adjoining properties and the public right-of-way and shall only be allowed rearward of the principal building on such lot and shall not be located in any required side yards.*
- D. In residential areas, no installation may be located on public or private property within 300 feet radius of another installation including any such installation located in a public right-*

of-way, except in the case of a cluster installation that does not result in a substantial increase in size. In no case may more than four antennas be clustered on a single pole in a residential area.

- E. Any pole over 30 feet in height must allow for collocation by future or concurrent applications for the installation of wireless telecommunications facilities. The applicant must demonstrate that the design of the pole and antenna support and the placement of ground-mounted facilities will accommodate one or more other wireless telecommunications facilities. The owner of the pole and antenna support must certify that the antenna support is available for use by another future or concurrent applicant for the installation of wireless telecommunication facilities on a commercially reasonable and nondiscriminatory basis. The equipment cabinet for such installations may be mounted on the pole or on the ground, and if located on the ground in any residential zoning district and in the Central Business District (CBD) and taller than four (4) feet (including any support structure), it shall be faced with a building material compatible with the structures in its surroundings and it shall be surrounded by native vegetative landscaping or other landscaping treatment providing screening of at least three (3) feet in height. The Zoning Administrator shall determine compliance with the screening requirements of this paragraph.*
- F. Notwithstanding any provision of this Chapter 170 of the Code to the contrary, the Zoning Administrator shall determine the required setback for any installation on a case by case basis upon a finding that the setback required is that which will achieve the maximum in safety and aesthetics given its location and potential impact to surrounding properties or the district in general.*
- G. No lights or other illumination devices other than security lights are permitted on any Small Cell Facility, unless required by the Federal Communications Commission ("FCC"), the Federal Aviation Administration ("FAA") or the Town. If security lighting is required, it shall not be permitted to be installed any higher than eighteen (18) feet from grade, unless required by the FCC, FAA, or the Town. Any security lighting must be downshielded to prevent light pollution on adjoining properties. Notwithstanding anything in this Section to the contrary, a Small Cell Facility may be installed on an existing or proposed light pole or other type of pole or structure that incorporates lighting for a purpose other than that related to the Small Cell Facility.*
- H. There shall be no advertising or other signage on any portion of a Small Cell Facility except that each installation must be identified by a permanently installed plaque or marker no larger than four by six inches which clearly states the mailing address, email address, and twenty-four hour local or toll-free telephone number for reaching a live contact person for both the permittee and the agent responsible for the maintenance of the facility. Emergency contact information must be included for immediate response, such information must be updated in the event of a change in permittee, the agent responsible for maintenance of the facility, or both.*
- I. Every Small Cell Facility (including all associated appurtenances) must be removed at the*

cost of the owner of the facility when the telecommunications facility is no longer in use by any telecommunications carrier. The owner shall have ninety (90) days to remove the Small Cell Facility following the date on which the owner's use of the Small Cell Facility ceases. The owner shall provide financial surety in a form and amount acceptable to the Town to secure payment of 125% of the cost of removal of the Small Cell Facility and all associated appurtenances if the use is discontinued.

J. Any new light pole erected for purposes of mounting a Small Cell Facility shall be designed consistent with other existing light poles within the surrounding area; other types of new poles shall not be permitted to be installed for purposes of mounting a Small Cell Facility.

K. Small Cell Facilities shall not interfere with public safety telecommunications. Any application for building and/or use and occupancy permit for a Small Cell Facility shall be accompanied by an intermodulation study which provides a technical evaluation of all proposed transmissions and indicates all potential interference problems. Prior to the introduction of any new service, the owner/operator shall provide the Town at least 10 calendar days' written notice to the Town Manager in advance of such service and allow the Town to monitor interference levels during the testing process.

L. Use of backup power sources. The use of diesel generator or other backup power sources shall be limited to actual power-outage events and any operation necessary for testing and maintenance. Permanent or continuous use of backup power sources is prohibited.

M. In addition to any other requirements for a zoning permit, building permit, and/or use and occupancy permit for a Small Cell Facility, as part of the application, the applicant shall provide the following:

(1) A report from a qualified and licensed professional engineer that describes the Small Cell Facility design, including cross sections and elevations; documents the height above grade for the Small Cell Facility and potential mounting positions for collocated antenna (if any) and the minimum separation distances between antenna; describes the location of the Small Cell Facility, including the number of additional antenna that can be accommodated (if any); documents what steps the applicant will take to avoid interference with established public safety telecommunications; includes an engineer's stamp and registration number; includes architectural renderings of the Small Cell Facility illustrating what it will look like at the proposed location and from various vantage points, as may be required by the Zoning Administrator.

(2) The applicant shall specify whether the application is subject to any Federal Communications Commission applications requirements or federal or state law, and if so, identify the law and the applicable requirements.

(3) The applicant shall provide proof that it is a licensed provider and will comply with all federal, state, and town laws and regulations, including those relative to wireless service.

- (4) *A master report plan of applicant's current proposed communication network including an illustrative wireless communications map detailing existing and proposed wireless coverage, antenna sites and collocation sites.*
- (5) *The application shall include the number of potential collocation sites on the proposed Small Cell Facility.*
- (6) *The applicant shall provide a safety report demonstrating that the structure can safely accept installation of the antennas and additional communication facilities.*
- (7) *If the applicant is not the owner of the property, the applicant shall provide proof of permission from the owner.*
- (8) *The applicant shall provide any other information reasonably required by the Zoning Administrator to evaluate the request.*

Section 16. Article IV Supplemental Zone Regulations of Chapter 170 of the Centreville Town Code is hereby amended to add a new Section 170-51 to read as follows:

§ 170-51. Telecommunications Tower

- A. It must be demonstrated that the location of a Telecommunications Tower is required for a specific antenna or antennas. No Telecommunications Tower shall be constructed for speculative reasons.*
- B. It must be demonstrated that an attempt has been made to locate the antenna on an existing tower or another suitable structure.*
- C. Telecommunications Towers shall be located a minimum distance from any property line equal to the height of the tower plus ten (10) feet.*
- D. It must be demonstrated that any Telecommunications Tower is in compliance with all federal regulations (FAA, FCC) prior to the Board of Appeals approval of a Telecommunications Tower.*
- E. Telecommunications Towers shall be no taller than necessary to ensure the effective service for the relevant service area, but in no case shall the Telecommunications Tower exceed 50 feet in height, and the tower shall be self-supporting.*
- F. Telecommunications Towers should be designed to accommodate as many collocated antennas as feasible.*
- G. Buffer screens yards as per the provisions of § 170-42 shall be provided surrounding any Telecommunications Tower structure and any accessory equipment building and such*

landscaping buffer shall include evergreen species with a mature height of not less than the height of any accessory building and/or fencing..

- H. To the extent possible while maintaining the requisite functionality of the Telecommunications Tower, Telecommunications Towers shall be positioned on a site so as to minimize the visual impacts of the Telecommunications Tower from all public streets. To accomplish this a Telecommunications Tower should generally be buffered by buildings, landscaping and/or other site features. Telecommunications Towers shall also be designed to minimize adverse visual and environmental impact (e.g. paint, camouflage, screening, stealth technology, concealed towers, color, use of existing structures and natural landscape, etc.). All equipment shelters shall be maintained in neutral shades consistent with the natural landscape.*
- I. No lights or other illumination devices other than security lights are permitted on any Telecommunications Tower, unless required by the Federal Communications Commission ("FCC"), the Federal Aviation Administration ("FAA"), or the Town. If security lighting is required, it shall not be permitted to be installed any higher than eighteen (18) feet from grade, unless required by FCC, FAA, or the Town. Any security lighting must be downshielded to prevent light pollution on adjoining properties.*
- J. There shall be no advertising or other signage on any portion of a Telecommunications Tower except that each Telecommunications Tower must be identified by a permanently installed plaque or marker no larger than four by six inches which clearly states the mailing address, email address, and twenty-four hour local or toll-free telephone number for reaching a live contact person for both the permittee and the agent responsible for the maintenance of the Telecommunications Tower. Emergency contact information must be included for immediate response, such information must be updated in the event of a change in permittee, the agent responsible for maintenance of the Telecommunications Tower, or both.*
- K. The Telecommunications Tower shall be removed by owner and at owner's sole cost and expense when the Telecommunications Tower is no longer used by any wireless communication carrier for more than twelve (12) months. The owner shall provide financial security in a form and amount acceptable to the Town to secure payment of 125% of the cost of removal of the Telecommunications Tower, base, foundation to six feet below ground level and accessory structures if the Telecommunications Tower's use is discontinued for more than twelve (12) months.*
- L. Telecommunications Towers shall not interfere with public safety telecommunications. Any application for site plan approval and/or a building permit for a Telecommunications Tower shall be accompanied by an intermodulation study which provides a technical evaluation of all proposed transmissions and indicates all potential interference problems. Prior to the introduction of any new service, the owner/operator shall provide the Town at least ten (10) calendar days' written notice to the Town Manager in advance of such service and allow the Town to monitor interference levels during the testing process.*

M. Nothing in these regulations is intended to supersede applicable Federal or State law. In the event that the regulations set forth in this § 170-51 conflicts with such laws, the applicable State and/or Federal laws shall apply.

N. In addition to the requirements contained herein and the standards for a special exception set forth in § 170-57, prior to granting a special exception for a Telecommunications Tower, the Board of Appeals must find the following:

- (1) The proposed Telecommunications Tower will not endanger the health and safety of residents, employees or travelers, including, but not limited to, the likelihood of the failure of such structures.*
- (2) The proposed Telecommunications Tower will not substantially impair the use of, or prove detrimental to, neighboring properties, considering, among other relevant factors:
 - (a) The topography and elevation of the property on which such structure is proposed to be located and the appearance and visibility of such structure from neighboring and surrounding properties and from public rights-of-way; and*
 - (b) The location of surrounding residences, buildings, structures and public rights-of-way and their use.**
- (3) The character of the surrounding neighborhood and the Centreville Community Plan's recommendations for the ultimate use of surrounding properties.*
- (4) The likelihood of interference with existing radio, television, telephone, wireless or microwave reception or service.*
- (5) The proposed structure will not cause any objectionable noise, fumes, odors, glare, physical activity or effect that would impair the peaceful enjoyment of neighboring properties.*
- (6) The proposed structure and use will be in harmony with the general character of the neighborhood.*
- (7) The location selected is not in an area in which there is an overconcentration of freestanding monopoles, towers or seminal structures.*

O. In addition to any other requirements, an application for a Telecommunications Tower shall include the following:

- (1) The applicant shall specify whether the application is subject to any Federal Communications Commission application requirements or federal or state law, and if so, identify the law and the applicable requirements.*
- (2) The applicant shall specify whether the application is subject to Federal Aviation*

Administration (FAA) approvals, and if so, the applicant shall identify the law and the applicable requirements (e.g. FAA Form 7460-1, Notice of Proposed Construction or Alteration).

- (3) The applicant shall provide proof that it is a licensed provider and will comply with all federal, state, and town laws and regulations, including those relative to wireless service.*
- (4) A master report plan of applicant's current proposed communication network including an illustrative wireless communications map detailing existing and proposed wireless coverage, antenna sites and collocation sites.*
- (5) The application shall include the number of potential collocation sites on the proposed wireless communications tower.*
- (6) The applicant shall provide a safety report demonstrating that the structure can safely accept installation of the antennas and additional communication facilities.*
- (7) A report from a qualified and licensed professional engineer that describes the tower design, including cross sections and elevations; documents the height above grade for the tower and potential mounting positions for collocated antenna (if any) and the minimum separation distances between antennas; describes the location of the tower, including the number of additional antennas that can be accommodated (if any); documents what steps the applicant will take to avoid interference with established public safety telecommunications; includes an engineer's stamp and registration number; includes architectural renderings of the tower illustrating what it will look like at the proposed location and from various vantage points, as may be required by the Zoning Administrator.*
- (8) The applicant shall provide any other information reasonably required by the Zoning Administrator to evaluate the request.*

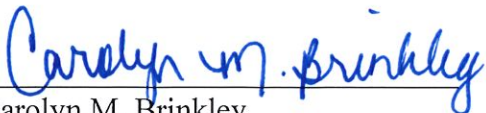
(Language to be deleted from the existing Ordinance is indicated in ~~strikethrough~~ format and language to be added is indicated by ***bold italics*** text)

Section 17. The Section numbers within Articles V, VI, VII, VIII, and IX of Chapter 170 of the Centreville Town Code shall be renumbered starting with § 170-52 and continuing consecutively thereafter.

Section 18. If any section, clause, paragraph, sentence or phrase of the Ordinance or the application thereof to any person, property, or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, the invalidity or unconstitutionality shall in no way affect other provisions or any other application of this Ordinance which can be given effect without the invalid or unconstitutional provision or application, and for this purpose the provisions of this Ordinance are declared severable.

Section 19. This Ordinance shall become effective twenty days after its enactment.

ATTEST:




Carolyn M. Brinkley
Town Clerk

First Reading: March 7, 2019
Second Reading: March 21, 2019
Enacted: March 21, 2019
Effective: April 11, 2019
(21st calendar day after enactment)

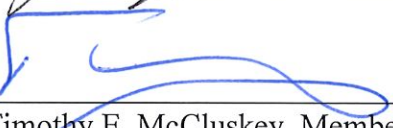
THE TOWN COUNCIL OF CENTREVILLE



Jim A. Beauchamp, President



Jeffrey C. Morgan, Vice President



Timothy E. McCluskey, Member