

INTRODUCTION OF REGULATIONS FOR INSTALLATIONS IN THE PUBLIC RIGHT OF WAY

Mayor and City Council Regular Session
Monday, August 21, 2017

BACKGROUND

- These regulations have been drafted as part of the comprehensive response to the increase in requests for installation of telecommunication, wireless facilities and other equipment in the public right-of-way (ROW); and
- Changes to applicable law, including from the Federal Communications Commission (FCC)

BROAD REGULATORY COVERAGE

- There are no standards or regulations now in place, and zoning requirements do not apply in City rights of ways
- The regulations are intended to comprehensively cover all right of way utility installations

SOURCES FOR DRAFTING

- Elements of right of way provisions in municipal codes nationwide, including New York City and others;
- Montgomery County, Maryland installation and excavation standards for work within rights of way;
- Initial input from industry and the public;
- Comprehensive input from City staff, including Public Works;
- Comprehensive review and suggestions from outside counsel.

PROPOSED SECTIONS:

- One: Regulations applying to all installations
- Two: Additional regulations applying to all right of way work not related to wireless facilities
- Three: Additional regulations applying to wireless facilities used to provide personal wireless services overall
- Four: Standard conditions for wireless facilities on City-owned poles or street lights

ONE: REGULATIONS

- Outlines the regulations applicable to all installations
- Specifies purpose to protect rights of way
- Identifies City's primary role as chief steward of public rights of way
- Identifies general need for a permit and City approval
- Identifies key elements of safety and requirement for specific plans and drawings

ONE: CONTINUED

- Excavations
- Right of Way repair and restoration
- Required permit inspections for excavations and any right of way work
- Liability, indemnity, and insurance requirements



TWO: ADDITIONAL REGULATIONS

- Outlines additional Regulations for all work in Rights of Way
- Specifies the permit application and appeal processes, including pre-approval and pre-submission
- Requires minimal intrusiveness on neighborhood through design elements such as size limits, coloration and shielding

TWO: CONTINUED

- Overall construction, reconstruction, repair and maintenance requirements
- Allowing City to require compliance with current version of any applicable standards when additional work is performed
- Generally requiring exterior attachments to poles to be eight (8) feet above grade and not above sidewalks



THREE: WIRELESS FACILITIES

- Outlines additional requirements for wireless facilities
- Permit application requirements and process
- Standards for staff approval per federal law
- Where facility addresses identified service issue
- And no safety hazard will be created

THREE: CONTINUED

On Investor-Owned Existing Utility Poles:

- Requires Historic District Commission approval if in historic district
- Prohibits work in environmentally sensitive area without approval or showing that denial would result in effective prohibition of service
- Only one base station per pole unless all cumulatively meet the overall requirements

FOUR: INSTALLATIONS ON CITY-OWNED STRUCTURES

- Outlines requirements for installation of wireless facilities on City-owned lights and traffic signals
- City acting in its proprietary capacity, having the most discretion
- Use of City-owned structures require prior agreement
- City may vary specific requirements
- City does not guarantee lease of any or all street lights or traffic signals

FOUR: INSTALLATIONS ON PRIVATE UTILITY POLES

- Outlines requirements for installation of wireless facilities on private utility poles
- Base station equipment design must be aesthetically consistent with the pole and nearby area
- Antenna and equipment housing requirements have specific size limitations



FOUR: INSTALLATIONS ON PRIVATE UTILITY POLES

- Wiring or cabling inside the pole or flush
- Electric meter installed inside pole unless not possible, and then must be smallest possible and on same side as the equipment
- Specific visual appearance requirements, including non-reflective, matching paint

NEXT STEPS:

- Staff is seeking introduction of these regulations
- Staff is also recommending that a public hearing be held regarding these regulations
- Should the Mayor and City Council determine a public hearing is desirable:
 - Proposed public hearing September 18, 2017
 - Staff recommends that the record be held open until 5 p.m. on October 2, 2017

NEXT STEPS:

- At the September 18, 2017 public hearing staff will present the comments received to-date and make recommended changes to the regulations based upon the comments received
- Staff will also request that any prospective providers submit model facilities in accordance with the requirements outlined in the regulations for consideration
- Final action on the regulations has been tentatively scheduled for December 4, 2017

Questions?