

**UNCODIFIED AMENDMENTS\***  
**MARYVILLE ZONING AND LAND USE ORDINANCE**

- 2019-04      Amendment to §14-220 pertaining to amendment procedures for the Zoning and Land Use Ordinance
  
- 2019-11      Amendment to §14-211 pertaining to small wireless facilities.

\*Uncodified amendments are those passed by the Maryville City Council which have not yet been incorporated into the full text of the municipal code.

ORDINANCE NO. 2019-04

AN ORDINANCE AMENDING SECTION 14-220 OF TITLE 14 OF THE MARYVILLE MUNICIPAL CODE REGARDING AMENDMENT PROCEDURES FOR THE ZONING AND LAND USE ORDINANCE

WHEREAS, the City of Maryville has adopted a land use and zoning ordinance; and

and WHEREAS, the amendment procedures for the ordinance are outlined in Section 14-220;

WHEREAS, the amendment procedures as outlined in the ordinance require revisions and clarifications; and

WHEREAS, the Maryville Municipal Planning Commission has heard, reviewed and recommended that this amendment be granted favorable consideration by the Council of the City of Maryville; and

WHEREAS, reasonable consideration has been given in this matter; and

and WHEREAS, the amendment promotes the health, safety, and welfare of the general public;

and WHEREAS, the amendment is consistent with the vision and goals of the City of Maryville;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MARYVILLE, TENNESSEE as follows:

SECTION 1. §14-220 is hereby deleted in its entirety and replaced with the following:

14-220. Amendments.

(1) Initiation of amendments.

- (a) The city may initiate an amendment to this ordinance.
- (b) Any other person may also petition to amend this ordinance. The petition shall be filed with the Development Services office on forms provided by the administrator. The petition shall include, among other information deemed relevant by the administrator:
  - (i) The name, address, and phone number of the applicant,
  - (ii) A description of the land affected by the amendment if a change in zoning district classification is proposed,
  - (iii) A description of the proposed map change or a summary of the specific objective of any proposed change to the text of this ordinance.

(2) Planning Commission consideration of proposed amendments.

Prior to final action by City Council, a proposed amendment to this ordinance shall be submitted to the Planning Commission for approval or disapproval. Provided that if the Planning Commission votes to disapprove of the amendment, it must receive the favorable

vote of a majority of the entire membership of City Council for approval.

(3) Hearing required: notice.

(a) City Council shall hold a public hearing prior to the final reading on any amendment to this ordinance. The notice of the public hearing shall be published in a newspaper having general circulation within the city at least fifteen (15) days prior to the hearing.

(b) With respect to zoning map amendments, the administrator shall mail written notice of the public hearing to the record owners for tax purposes of all properties whose zoning classification is changed by the proposed amendment. However, such notice shall not be required for the readoption of the zoning map or adoption of a new zoning map for the entire city.

(c) The planning staff shall also take any other action deemed useful or appropriate to give notice of the public hearing on any proposed amendment.

(d) The notice required or authorized by this section shall:

(i) State the date, time and place of the public hearing,

(ii) Summarize the nature and character of the proposed change,

(iii) If the proposed amendment involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment,

(iv) State that the full text of the amendment can be obtained from the Development Services department, and

(v) State that substantial changes in the proposed amendment may be made following the public hearing.

(e) The planning staff shall make every reasonable effort to comply with the notice provisions set forth in this section. However, it is the council's intention that no failure to comply with any of the notice provisions (except those set forth in subsection (a)) shall render any amendment invalid.

(4) Ultimate issue before council on amendments. In deciding whether to adopt a proposed amendment to this ordinance, the central issue before the council is whether the proposed amendment advances the public health, safety, or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the Mayor and excluded. In particular, when considering proposed zoning map amendments:

(a) The council shall not consider any representations made by the petitioner that if the change is granted, the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the council shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.

(b) The council shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

(c) The council shall not zone property to a district in conflict with the Land Use Plan and the Future Land Use Map without first amending said plan.

(d) The council shall consider the recommendation made by the planning commission.

**SECTION 2.** That the provisions of this Ordinance shall be effective from and after its final passage, the public welfare requiring it.


ADOPTED this 5<sup>th</sup> day of March, 2019.

  
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Mayor

ATTEST:

  
\_\_\_\_\_  
City Recorder

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

Passed 1<sup>st</sup> reading on this 5<sup>th</sup> day of February 2019   
\_\_\_\_\_  
City Recorder

Passed 2<sup>nd</sup> reading on this 5<sup>th</sup> day of March, 2019   
\_\_\_\_\_  
City Recorder

**ORDINANCE NO. 2019-11**

**AN ORDINANCE ESTABLISHING STANDARDS FOR SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY BY ADDING A SECTION 14-211 (27) TO THE ZONING AND LAND USE ORDINANCE, TITLE 14, CHAPTER 2 OF THE MARYVILLE MUNICIPAL CODE**

**WHEREAS**, the City of Maryville ("City"), Tennessee, desires to encourage wireless infrastructure investment by providing a fair and predictable process for the deployment of small wireless facilities, while enabling the City to promote the management of the rights-of-way in the overall interests of the public health, safety and welfare; and

**WHEREAS**, the City recognizes that small wireless facilities are critical to delivering wireless access to advance technology, broadband and 9-1-1 services to homes, businesses, schools within the City; and

**WHEREAS**, the City recognizes that small wireless facilities, including facilities commonly referred to as small cells and distributed antenna systems, often may be deployed most effectively in the public rights-of-way; and

**WHEREAS**, on April 24, 2018, the Competitive Wireless Broadband Investment, Deployment, and Safety Act of 2018 was passed by the Tennessee General Assembly, which added Tennessee Code Annotated 13-24-401 et seq; and

**WHEREAS**, Tennessee Code Annotated Title 13, Chapter 24, Part 4 allows municipalities to adopt and enforce regulations in the application, deployment, and maintenance of small cell facilities in the public rights-of-way;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF MARYVILLE, TENNESSEE** as follows:

**SECTION 1.** That Title 14, Chapter 2 of the Maryville Municipal Code be amended by adding a Section 14-211 (27), as follows:

(27) Small wireless facilities in the public rights-of-way.

(a) Purpose and Scope.

(i) Purpose. In accordance with Tennessee Code Annotated §13-24-401, et seq, known as "Competitive Wireless Broadband Investment, Deployment, and Safety Act of 2018," the purpose of this chapter is to establish policies and procedures for the placement of small wireless facilities in the public rights-of-way within the City's jurisdiction, which will provide public benefit consistent with the preservation of the

integrity, safe usage, and visual qualities of the City's rights-of-way and to the City as a whole.

- (ii) Intent. In enacting this chapter, the city is establishing uniform standards to address issues presented by small wireless facilities, including without limitation, to:
  - (A) Prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;
  - (B) Prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
  - (C) Prevent interference with the facilities and operations of facilities lawfully located in public rights-of-way or public property;
  - (D) Protect against environmental damage, including damage to trees;
  - (E) Preserve the character of the neighborhoods in which facilities are installed; and
  - (F) Facilitate rapid deployment of small wireless facilities to provide the benefits of advanced wireless services.
  
- (b) Definitions. [The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.]
  - (i) "Aesthetic requirements." Any aesthetic requirements and guidelines for small wireless facilities as defined in this ordinance.
  - (ii) "Antenna." Communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.
  - (iii) "Annual Lease Fee." The fee due to the city for the reimbursement for the installation of a small wireless facility on city property irrespective of whether the property is owned, leased, or within the public right-of-way. Each installation/spot is a separate annual lease fee.
  - (iv) "Applicable Codes." Uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons to the extent not inconsistent with the terms of this chapter.
  - (v) "Applicant." Any person who submits an application pursuant to this part.
  - (vi) "Application." A request submitted by an applicant to the City of Maryville:
    - (A) For a permit to deploy or collocate small wireless facilities in the City of Maryville right-of-way; or
    - (B) To approve the installation or modification of a Utility Pole or Potential Support Structure (PSS) associated with deployment or collocation of small wireless facilities in the right-of-way.
  - (vii) "Authority-owned PSS or City-owned PSS." A PSS owned or leased by the City in the rights-of-way, including a utility pole that provides lighting, including light poles and structures for signage and a pole or similar structure owned/leased by the City in the rights-of-way that supports only wireless facilities. Authority-owned PSS does not include a PSS owned by a distributor of electric power, regardless of whether an electric distributor is investor-owned, cooperatively-owned, or government-owned.

- (viii) "City." City of Maryville, Tennessee.
- (ix) "Collocate, collocating, and collocation." In their respective noun and verb forms, to install, mount, maintain, modify, operate, or replace small wireless facilities on, adjacent to, or related to a PSS. "Collocation" does not include the installation of a new PSS or replacement of authority-owned PSS.
- (x) "Communications facility." The set of equipment and network components, including wires and cables and associated facilities, used by a communications service provider to provide communications service.
- (xi) "Communications service." Cable service as defined in 47 U.S.C. § 522(6), telecommunications service as defined in 47 U.S.C. § 153(53), information service as defined in 47 U.S.C. § 153(24) or wireless service.
- (xii) "Communications service provider." A cable operator as defined in 47 U.S.C. § 522(5), a telecommunications carrier as defined in 47 U.S.C. § 153(51), a provider of information service as defined in 47 U.S.C. § 153(24), a video service provider as defined in § 7-59-303, or a wireless provider.
- (xiii) "Day." Calendar day.
- (xiv) "Fee." A one-time, non-recurring charge.
- (xv) "Historic district." A property or area zoned as a historic district or zone pursuant to § 13-7- 404.
- (xvi) "Micro wireless facility." A small wireless facility that :
  - (A) Does not exceed twenty-four inches (24") in length, fifteen inches (15") in width, and twelve inches (12") in height; and
  - (B) The exterior antenna, if any, does not exceed eleven inches (11") in length.
- (xvii) "Permittee." A n applicant who is party to an agreement or has been granted a permit.
- (xviii) "Person." A n individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including a governmental entity.
- (xix) "Pole attachment agreement." Standard form contract or contracts between the City of Maryville Electric Department and a telecommunications operator which identifies additional terms and conditions governing the process under which the operator would be permitted to attach facilities to poles.
- (xx) "Potential support structure for a small wireless facility or PSS." A pole or other structure used for wireline communications, electric distribution, lighting traffic control, signage, or a similar function, including poles installed solely for the collocation of a small wireless facility. When "PSS" is modified by the term "new," then "new PSS" means a PSS that does not exist at the time the application is submitted, including, but not limited to, a PSS that will replace an existing pole. The fact that a structure is a PSS does not alone authorize an applicant to collocate on, modify, or replace the PSS until an application is approved and all requirements are satisfied pursuant to this part.
- (xxi) "Rate." A recurring charge.

- (xxii) "Residential neighborhood." A n area within the City's geographic boundary that is zoned or otherwise designated by the City for general purposes as an area primarily used for single- family residences and does not include multiple commercial properties and is subject to speed limits and traffic controls consistent with residential areas.
- (xxiii) "Right-of-way or ROW." The space, in, upon, above, along, across, and over all public streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area or property under control by the City and any unrestricted public utility easement established, dedicated, platted, improved, or devoted for utility purposes and accepted as such public utility easement by the authority, but excluding lands other than streets that are owned by the City.
- (xxiv) "Right-of-way permit or permit." A permit for the construction or installation of wireless facilities, small wireless facilities, wireless backhaul facilities, fiber optic cable, conduit, and associated equipment necessary to install wireless facilities in the right-of-way.
- (xxv) "Small wireless facility." A wireless facility with:
  - (A) An antenna that could fit within an enclosure of no more than six (6) cubic feet in volume; and
  - (B) Other wireless equipment in addition to the antenna that is cumulatively no more than twenty-eight (28) cubic feet in volume, regardless of whether the facility is ground-mounted or pole-mounted. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment element, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, or a vertical cable run for the connection of power and other services; and
  - (C) "Small wireless facility" includes a micro wireless facility.
- (xxvi) "Wireline backhaul facility." A communications facility used to transport communications services by wire from a wireless facility to a network.
- (xxvii) "Wireless facility." E quipment at a fixed location that enables wireless communications between user equipment and a communications network, including:
  - (A) Equipment associated with wireless communications; and
  - (B) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

Wireless facility does not include:

  - (A) The structure or improvements on, under, or within which the equipment is collocated;
  - (B) Wireline backhaul facilities; or
  - (C) Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless facility includes small wireless facilities.



- (xxviii) "Wireless infrastructure provider." Any person, including a person authorized to provide telecommunications service in the state, that builds or installs wireless communication transmission equipment, wireless facilities or PSSs, but that is not a wireless services provider.
  - (xxix) "Wireless provider." A wireless infrastructure provider or a wireless services provider.
  - (xxx) "Wireless services." Any service using licensed or unlicensed spectrum, including the use of WIFI, whether at a fixed location or mobile, provided to the public.
  - (xxxi) "Wireless services provider." A person who provides wireless services.
- (c) Permitted use; application and fees.
- (i) Permitted use. Collocation of a small wireless facility or installation of a new, replacement, or modified City-owned PSS or PSS for a privately-owned small wireless facility shall be a permitted use, subject to the restrictions in this title. Collocation on PSS owned by the City of Maryville Electric Department is preferred as most poles in the right-of-way are owned by the utility.
  - (ii) Permit required. No person may construct, install, and/or operate wireless facilities that occupy the right-of-way without first obtaining a right-of-way use permit from the City. Any right-of-way use permit shall be reviewed, issued and administered in a non-discriminatory manner, shall be subject to such reasonable conditions as the City may from time to time establish for effective management of the right-of-way, and otherwise shall conform to the requirements of this chapter and applicable law.
  - (iii) Pre-application filing meeting. Prior to filing an application, a pre-application meeting is encouraged.
  - (iv) Permit applications. All applications for right-of-way permits filed pursuant to this chapter shall be on a form, paper or electronic, provided by the City. The applicant may designate portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly. A pole attachment agreement will also be required when collocating on PSS owned by the City of Maryville Electric Department. Applications are limited to twenty (20) structures per application.
  - (v) Application requirements. The application shall be made by the wireless provider or its duly authorized representative and shall contain the following information.
    - (A) The applicant's name, address, telephone number, and e-mail address.
    - (B) The names, addresses, telephone numbers, and e-mail addresses of all consultants, contractors and subcontractors, if any, acting on behalf of the applicant with respect to the filing of the application or who may be involved in doing any work on behalf of the applicant.
    - (C) A site plan for each proposed location shall be submitted in accordance with the City of Maryville Zoning and Land Use Ordinance, 14-212. Site plans shall be signed and sealed by a professional engineer registered in Tennessee depicting the design for installation of the small wireless facility with sufficient detail for the City to determine that the design of the installation and any new PSS or any modification of a PSS is consistent











(g) Public right-of-way rates; Attachment to city-owned/leased utility poles and new utility poles installed within the public right-of-way or city-owned/leased property.

- (i) Annual rate. The rate to place a small wireless facility on a City-owned or leased pole in the right-of-way shall be the maximum fee in accordance with the amount stated in T.C.A. 13-24-407 per year for all City-owned or leased poles in the rights-of-way. If attaching to a City of Maryville Electric Department pole, the current pole attachment rates and fees will apply. All equipment attached to a City-owned pole shall constitute a single attachment and therefore a single use of a City-owned pole. Such compensation, for the first year or for any portion thereof, together with the application fee shall be the sole compensation that the wireless provider shall be required to pay the City.
- (ii) A wireless provider authorized to place a new utility pole within public right-of-way or on City-owned or leased property shall pay the City for use of the right-of-way or property in the amount stated in T.C.A. 13-24-407.
- (iii) Make-ready. For City-owned or leased utility poles in the rights-of-way, the City shall provide a good faith reasonable direct cost-based estimate for any make-ready work necessary to enable the pole to support the requested small wireless facility, including pole replacement if necessary, within 60 days after receipt of a completed request. Make-ready work including any pole replacement shall be completed within 60 days of written acceptance of the good faith estimate by the wireless provider.

(h) Remedies; violations.

In the event a reasonable determination is made that a person has violated any provision of this chapter, or a right-of-way permit, such person shall be provided written notice of the determination and the specific, detailed reasons therefor. Except in the case of an emergency, the person shall have 30 days to commence to cure the violation. If the nature of the violation is such that it cannot be fully cured within such time period, the City, in its reasonable judgment, may extend the time period to cure, provided that the person has commenced to cure and is diligently pursuing its efforts to cure. If the violation has not been cured within the time allowed, the City may take all actions authorized by this chapter and/or Tennessee law and regulations.

(i) General provisions.

- (i) Insurance. Each permittee shall, at all times during the entire term of the right-of-way use permit, maintain and require each contractor and subcontractor to maintain insurance with a reputable insurance company authorized to do business in the State of Tennessee and which has an A.M. Best rating (or equivalent) no less than "A" indemnifying the City from and against any and all claims for injury or damage to persons or property, both real and personal, caused by the construction, installation, operation, maintenance or removal of permittee's wireless facilities in the rights-of-way. The amounts of such coverage shall be not less than the following:
  - (A) Worker's compensation and employer's liability insurance. Tennessee statutory requirements.
  - (B) Comprehensive general liability. Commercial general liability occurrence form, including premises/operations, independent contractor's contractual liability,

product/completed operations; X, C, U coverage; and personal injury coverage for limits no less than \$1,000,000.00 per occurrence, combined single limit and \$2,000,000.00 in the aggregate.

- (C) Commercial automobile liability. Commercial automobile liability coverage for all owned, non-owned and hired vehicles involved in operations under this article XII for limits no less than \$1,000,000.00 per occurrence combined single limit each accident.
  - (D) Commercial excess or umbrella liability. Commercial excess or umbrella liability coverage may be used in combination with primary coverage to achieve the required limits of liability. The City shall be designated as an additional insured under each of the insurance policies required by this section except worker's compensation and employer's liability insurance. Permittee shall not cancel any required insurance policy without obtaining alternative insurance in conformance with this section. Permittee shall provide the City with at least 30 days' advance written notice of any material changes or cancellation of any required insurance policy, except for non-payment of premium of the policy coverages. Permittee shall impose similar insurance requirements as identified in this section on its contractors and subcontractors.
- (ii) Indemnification. Each permittee, its consultant, contractor, and subcontractor, shall, at its sole cost and expense, indemnify, defend and hold harmless the City, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the permittee, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of permittee's wireless system or wireless facilities in the rights-of-way. Each permittee shall defend any actions or proceedings against the City in which it is claimed that personal injury, including death, or property damage was caused by the permittee's construction, installation, operation, maintenance or removal of permittee's wireless system or wireless facilities in the rights-of-way. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other reasonable costs of indemnification.
- (iii) Application for Renewal of Permit. A permittee desiring to renew a right-of-way permit prior to the expiration of the permit shall file an application with the City for renewal of its authorization, which shall include the information and documents required for an initial application and other material information reasonably required by the Director of Engineering and Public Works, or his or her designee.
- (A) The City shall make a determination accepting or denying the renewal application in writing to the permittee.
  - (B) The City shall timely process any renewal application provided that (1) permittee is not then in material default under any provision of the right-of-way permit, or in material non-compliance with this chapter; and (2) has otherwise satisfactorily performed all of its obligations under the right-of-way permit, and this chapter during



the expiring term. In the event the City elects not to renew, it shall provide a written basis for such non-renewal. Determinations to grant or deny a renewal application shall be made on a nondiscriminatory and competitively neutral basis. The City shall not unreasonably delay, condition, withhold or deny the issuance of a renewal permit.

- (iv) As-built maps. As the City controls and maintains the right-of-way for the benefit of its citizens, it is the responsibility of the City to ensure that such public right-of-way meet the highest possible public safety standards. Upon request by the City and within 30 days of such a request, a permittee shall submit as-built maps and engineering specifications depicting and certifying the location of all its existing small wireless facilities within the right-of-way, provided in standard electronic or paper format in a manner established by the Director of Engineering & Public Works, or his or her designee. After submittal of the as-built maps as required under this section, each permittee having small wireless facilities in the City right-of-way shall update such maps as required under this chapter upon written request by the City.
- (v) Right to inspect. With just and reasonable cause, the City shall have the right to inspect all of the small wireless facilities, including aerial facilities and underground facilities, to ensure general health and safety with respect to such facilities and to determine compliance with the terms of this chapter and other applicable laws and regulations. Any permittee shall be required to cooperate with all such inspections and to provide reasonable and relevant information requested by the City as part of the inspection.
- (j) Transitional provisions.
  - (i) Persons already authorized to use the right-of-way. Any wireless provider and/or entity holding a permit or other authorization from the City to own, construct, install, operate, and/or maintain wireless facilities in the right-of-way to provide services may continue to conduct those activities expressly authorized until the earlier of the following: (1) the conclusion of the present term of its existing authorization, or (2) 180 days after the effective date of this chapter. Notwithstanding the foregoing, any such person shall apply for a superseding right-of-way permit pursuant to this chapter within 90 days after the effective date of the chapter and shall be subject to the terms and conditions of this chapter. Upon such application, such person shall be allowed to continue to own, operate and/or maintain its wireless facilities in the right-of-way until such right-of-way permit becomes effective.
  - (ii) Operating without right-of-way use authorization. Any person that owns or operates any wireless facilities currently located in the right-of-way, the construction, operation, or maintenance of which is not currently authorized but is required to be authorized under this chapter, shall have ten (10) days from the effective date of this chapter to apply for a right-of-way permit. Any person timely filing such an application shall not be subject to penalties for failure to hold a right-of-way permit, provided that said application remains pending. Nothing herein shall relieve any person of any liability for its failure to obtain a right-of-way use permit, or other authorization required under other provisions of this chapter or City ordinances or regulations, and nothing herein shall prevent the City from requiring removal of any wireless facilities installed in violation of this chapter or City ordinances or regulations.

- (iii) Duty to provide information. Within ten days of a written request from the City, a permittee shall furnish the City with information sufficient to demonstrate the following: that the permittee has complied with all requirements of this chapter; that all fees due to the City in connection with the services provided and wireless facilities installed by the permittee have been properly paid by the permittee; and any other information reasonably required relating to the permittee's obligations pursuant to this chapter.
- (iv) No substitute for other required permissions. No right-of-way permit includes, means, or is in whole or part a substitute for any other permit or authorization required by the laws and regulations of the City for the privilege of transacting and carrying on a business within the City or any permit or agreement for occupying any other property of the City.
- (v) No waiver. The failure of the City to insist on timely performance or compliance by any permittee holding a right-of-way permit shall not constitute a waiver of the City's right to later insist on timely performance or compliance by that permittee or any other permittee holding such right-of-way permit. The failure of the City to enforce any provision of this chapter on any occasion shall not operate as a waiver or estoppel of its right to enforce any provision of this chapter on any other occasion, nor shall the failure to enforce any prior ordinance or City Charter provision affecting the right-of-way, any wireless facilities, or any user or occupant of the right-of-way act as a waiver or estoppel against enforcement of this chapter or any other provision of applicable law.
- (vi) Policies and procedures. The City is authorized to establish such written policies and procedures consistent with this chapter as the City reasonably deems necessary for the implementation of this chapter.
- (vii) Police powers. The City, by granting any permit or taking any other action pursuant to this chapter, does not waive, reduce, lessen or impair the lawful police powers vested in the City under applicable federal, state and local laws and regulations.
- (viii) Severability. If any section, subsection, sentence, clause, phrase or word of this chapter is for any reason held illegal or invalid by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and such holding shall not render the remainder of this chapter invalid.

**SECTION 2.** That Title 14, Chapter 2 of the Maryville Municipal Code be amended by renumbering Section 14-211 (27), Storefront churches, to Section 14-211 (28).

**SECTION 3.** That the provisions of this Ordinance shall be effective from and after its final passage, the public welfare requiring it.

ADOPTED this 7<sup>th</sup> day of May, 2019.

  
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Mayor

ATTEST:

  
\_\_\_\_\_  
City Recorder

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

Passed 1<sup>st</sup> reading on this 2<sup>nd</sup> day of April, 2019   
\_\_\_\_\_  
City Recorder

Passed 2<sup>nd</sup> reading on this 7<sup>th</sup> day of May, 2019   
\_\_\_\_\_  
City Recorder