

INTRODUCED: May 22, 2017

AN ORDINANCE No. 2017-106

To amend City Code § 30-692, concerning requirements for the location and design of wireless communications facilities, microwave relay facilities, and radio and television broadcast antennas; to amend ch. 30, art. VI, div. 11 of the City Code by adding therein a new section 30-692.7, concerning the installation of small cell facilities on existing structures; and to amend and reordain the fees set forth in Appendix A of the City Code by adding therein new fees for City Code § 30-692.7(d), for the purpose of reflecting amendments to state law.

\_\_\_\_\_  
Patron – Mayor Stoney

\_\_\_\_\_  
Approved as to form and legality  
by the City Attorney  
\_\_\_\_\_

PUBLIC HEARING: JUNE 26 2017 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That section 30-692 of the Code of the City of Richmond be and is hereby **amended** and reordained as follows:

**Sec. 30-692. Purpose of division.**

Sections 30-692.1 through [~~30-692.6~~] 30.692.7 are for the purpose of setting forth requirements for the location and design of wireless communications facilities, microwave relay facilities, and radio and television broadcast antennas.

AYES: 9 NOES: 0 ABSTAIN: \_\_\_\_\_

ADOPTED: JUNE 26 2017 REJECTED: \_\_\_\_\_ STRICKEN: \_\_\_\_\_

§ 2. That Chapter 30, Article VI, Division 11 of the Code of City of Richmond (2015) be and is hereby amended and reordained by **adding therein a new** section numbered 30-692.7 as follows:

**Sec. 30-692.7. Installation of small cell facilities on existing structures.**

(a) Notwithstanding anything to the contrary in this chapter 30, the co-location of small cell facilities by a wireless services provider or wireless infrastructure provider on an existing structure, all as defined in this section, shall be permitted subject to the provisions of this section, provided that the wireless services provider or wireless infrastructure provider has permission from the owner of the existing structure to co-locate equipment on that existing structure and so notifies the Director of Planning and Development Review or the designee thereof.

(b) The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection (b), except where the context clearly indicates that a different meaning is intended:

*Antenna* means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

*Base station* means a station that includes a structure that currently supports or houses an antenna, transceiver, coaxial cables, power cables, or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and other associated electronics.

*Co-locate* means to install, mount, maintain, modify, operate, or replace a wireless facility on, under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure. “Co-location” has a corresponding meaning.

*Existing structure* means any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to the city of an agreement with the owner of the structure to co-locate equipment on that structure. “Existing structure” includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.

*Micro-wireless facility* means a small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

*Small cell facility* means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

*Small cell facility co-location permit* means a permit authorizing a wireless service provider or wireless infrastructure provider to co-locate a small cell facility on an existing structure.

*Utility pole* means a structure owned, operated, or owned and operated by a public utility, local government, or the Commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity.

*Water tower* means a water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

*Wireless facility* means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

*Wireless infrastructure provider* means any person that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

*Wireless services* means (i) “personal wireless services” as defined in 47 U.S.C. § 332(c)(7)(C)(i); (ii) “personal wireless service facilities” as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.

*Wireless services provider* means a provider of wireless services.

*Wireless support structure* means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternative structure designed to support or capable of supporting wireless facilities. “Wireless support structure” does not include

any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

(c) No small cell facility shall be co-located on any existing structure and no building permit authorizing the co-location of any small cell facility on any existing structure shall be issued until the wireless service provider or wireless infrastructure provider obtains a small cell facility co-location permit for the co-location of such small cell facility.

(d) Applications for small cell facility co-location permits shall be submitted to the Director of Planning and Development Review or the designee thereof and may include up to 35 permit requests on a single application. A permit fee and processing fee as set forth in Appendix A to this Code shall accompany each application. Applications shall include the following information for each permit requested. Any application not containing all of the following information may be deemed incomplete by the Director of Planning and Development Review or the designee thereof.

(1) The applicant's name and status as a wireless service provider or wireless infrastructure provider and a valid electronic mail address at which the applicant may be contacted;

(2) The address and latitude/longitude of the existing structure on which the small cell facility will be co-located;

(3) The owner of the existing structure and an agreement or other evidence showing the owner has granted permission to the applicant to co-locate on the existing structure, which evidence may include the owner's signature on the application;

(4) A description of any other regulatory review required for the site and the status of that review (e.g., Federal Communications Commission, Federal Aviation Administration, NEPA impact report);

(5) A statement that the small cell facility and operation thereof will not materially interfere with other pre-existing communications facilities or with future communications facilities that have already been designed and planned for a specific location or that have been reserved for future public safety communications facilities; and

(6) Plans clearly depicting the following:

a. The dimensions and specifications of the small cell facility, including the antennae, base station, and all other associated wireless equipment;

b. A detailed layout plan consisting of a site plan, roof plan, floor plan, as applicable to the existing structure;

c. Detailed elevation drawings showing the co-location of the small cell facility, including the base station and all other associated equipment, on the existing structure; and

d. In the case of an installation on publicly owned or publicly controlled property, excluding privately owned structures where the applicant has an agreement for attachment to the structure, such plans and elevation drawings shall include:

1. The color of the existing structure and the small cell facility, the base station and all other associated equipment;

2. The location and details of lighting, when applicable; and

3. Landscape plans for the base of the existing structure and ground mounted equipment.

(e) Within ten days after receipt of an application and a valid electronic mail address for the applicant, the Director of Planning and Development Review or the designee thereof shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. Within 60 days of receipt of a complete application, the Director of Planning and Development Review or the designee thereof shall either approve the application, disapprove the application, or extend the period for an additional 30 days by providing written notice of such extension to the applicant. Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval. The application shall be deemed approved if the Director of Planning and Development Review or the designee thereof does not disapprove the application within 60 days of receipt of the complete application unless within such 60 days the Director of Planning and Development Review or the designee thereof extended the period for an additional 30 days pursuant to this section, in which case the application shall be deemed approved if the Director of Planning and Development Review or the designee thereof does not disapprove the application within 90 days of receipt of the completed application.

(f) Provided the applicant is in compliance with all provisions of this section, the Director of Planning and Development Review or the designee thereof shall not unreasonably condition, withhold, or delay the issuance of a small cell facility co-location permit and may only disapprove a small cell facility co-location permit for the following reasons:

(1) Material potential interference with other pre-existing communications facilities or with future communications facilities that have already been designed and

planned for a specific location or that have been reserved for future public safety communications facilities;

(2) The public safety or other critical public service needs;

(3) Only in the case of an installation on or in publicly owned or publicly controlled property, excluding privately owned structures where the applicant has an agreement for attachment to the structure, aesthetic impact or the absence of all required approvals from all departments, authorities, and agencies with jurisdiction over such property; or

(4) If the existing structure upon which the small cell facility would be co-located is within an old and historic district as set forth in Article IX, Division 4 of this chapter and no certificate of appropriateness authorizing the small cell facility has been issued as required by Article IX, Division 4 of this chapter.

(g) Nothing shall prohibit an applicant from voluntarily submitting, and the Director of Planning and Development Review or the designee thereof from accepting, any conditions that otherwise address potential visual or aesthetic effects resulting from the placement of small cell facilities.

(h) Any wireless support structure or wireless facility permitted pursuant to this section and which has not been used for wireless services for a continuous period of 12 months shall be deemed to be abandoned and shall be removed from the premises within 90 days of such abandonment.

(i) Notwithstanding anything to the contrary in this section, the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that



are strung between existing utility poles in compliance with national safety codes shall be exempt from the permitting requirements and fees set forth herein.

§ 3. That the fees set forth in Appendix A of the Code of the City of Richmond (2015) for section 30-692.7(d) of the Code of the City of Richmond (2004) be and are hereby **amended** and reordained as follows:

<i>Code Section</i>	<i>Description</i>	<i>Fee</i>
30-692.7(d)	Permit and processing fee for an application for a small cell facility co-location permit:	
	(1) For each small cell facility up to five small cell facilities on a single permit application	\$100.00
	(2) For each additional small cell facility over five small cell facilities on a single permit application	\$50.00

§ 4. This ordinance shall be in force and effect as of July 1, 2017.



CITY OF RICHMOND
INTRACITY CORRESPONDENCE

O & R REQUEST

4-6515
MAY 4 2017

Office of the
Chief Administrative Officer

O&R REQUEST

DATE: May 4, 2017

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

THROUGH: Peter L. Downey, Deputy Chief Administrative Officer for Economic
Development & Planning

FROM: Mark A. Olinger, Director of Planning and Development Review

RE: State-Mandated Amendments to City's Zoning Ordinance

ORD. OR RES. No. \_\_\_\_\_

RECEIVED

MAY 05 2017

OFFICE OF CITY ATTORNEY

PURPOSE: To amend and reordain ch. 30, art. VI, Division 11 of the City Code by adding
therein a new section numbered 30-692, concerning co-location of small cell facilities on exist-
ing structures, and to amend and reordain Appendix A of the City Code by adding therein a new
corresponding fee, for the purpose of reflecting amendments to state law.

REASON: The proposed ordinance would conform certain sections of the City Code with the
amendment of the Virginia Code adding in Chapter 22 of Title 15.2 an article numbered 7.2,
concerning zoning for wireless communications infrastructure.

RECOMMENDATION: The City Administration recommends adoption of this ordinance.

BACKGROUND: The changes proposed in this ordinance reflect changes to the City Code
necessary for the City to comply with amendment of the Virginia Code adding in Chapter 22 of
Title 15.2 an article numbered 7.2, concerning zoning for wireless communications infrastruc-
ture. The new section 30-692 is attached to this O&R request.

FISCAL IMPACT / COST: The Department of Planning & Development Review does not
anticipate any significant impact to the City's budget for this or future fiscal years.

**FISCAL IMPLICATIONS:** Staff time for processing the reports and preparation of draft ordinance.

**BUDGET AMENDMENT NECESSARY:** No budget amendment is necessary if this proposed ordinance is adopted.

**REVENUE TO CITY:**

**DESIRED EFFECTIVE DATE:** July 1, 2017.

**REQUESTED INTRODUCTION DATE:** May 8, 2017.

**CITY COUNCIL PUBLIC HEARING DATE:** June 12, 2017.

**REQUESTED AGENDA:** Consent.

**RECOMMENDED COUNCIL COMMITTEE:** None.

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission.

**AFFECTED AGENCIES:** Department of Planning and Development Review, Office of the City Attorney.

**RELATIONSHIP TO EXISTING ORD. OR RES.:** Amends City Code ch. 30, art. VI, Division 11 of the City Code by adding therein a new section numbered 30-692.

**REQUIRED CHANGES TO WORK PROGRAM(S):** No changes to work programs are required.

**ATTACHMENTS:** Draft Amendments to City Code Chapter 30.

**STAFF:** Mark A. Olinger, Director of Planning and Development Review, 646-6305.



CITY OF RICHMOND

PLANNING COMMISSION

MAY 15, 2017

**MOTION OF THE CITY OF RICHMOND PLANNING COMMISSION**

**TO DECLARE AN INTENT TO AMEND THE CITY ZONING ORDINANCE FOR THE PURPOSE OF BRINGING THE CITY ZONING ORDINANCE INTO COMPLIANCE WITH AN AMENDMENT TO THE CODE OF VIRGINIA CONCERNING CO-LOCATION OF SMALL CELL FACILITIES ON EXISTING STRUCTURES**

WHEREAS, in accordance with Section 15.2-2286 of the Code of Virginia an amendment to the zoning regulations or district maps may be initiated by motion of the City of Richmond Planning Commission provided any such motion or resolution of the Commission proposing an amendment to the regulations or district maps shall state the public purposes therefore; and

WHEREAS, good zoning practice dictates that the Zoning Ordinance be amended as required to remain compliant with the Code of Virginia; and

WHEREAS, the proposed amendment would conform certain sections of the City Code with the amendment of the Virginia Code adding in Chapter 22 of Title 15.2 an article numbered 7.2, concerning zoning for wireless communications infrastructure;

NOW, THEREFORE BE IT RESOLVED, that the City Planning Commission hereby concludes that an amendment to the City Zoning Ordinance should be drafted for the purpose of bringing the City Zoning Ordinance into compliance with an amendment to the Code of Virginia concerning co-location of small cell facilities on existing structures;

NOW, THEREFORE BE IT FURTHER RESOLVED, that a public hearing on the proposed zoning amendment be held by the City Planning Commission prior to City Council action.

Handwritten signature of Rodney M. Poole in black ink.

Rodney Poole  
Chair, City Planning Commission

Handwritten signature of Matthew Ebinger in black ink.

Matthew Ebinger  
Secretary, City Planning Commission