

INTRODUCED: May 29, 2018

AN ORDINANCE No. 2018-157

To amend City Code §§ 30-692.1 through 30-692.7, concerning requirements for the location and design of wireless communications facilities, microwave relay facilities, and radio and television broadcast antennas, and 30-1030.1, concerning when a plan of development is required, and to amend ch. 30, art. VI, div. 11 of the City Code by adding therein new sections 30-692.1:1, concerning definitions, and 30-692.1:2, concerning applications for the installation or construction of projects, 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 25 2018 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That sections 30-692.1 through 30-692.7 and 30-1030.1 of the Code of the City of Richmond (2015) be and are hereby **amended** and reordained as follows:

**DIVISION 11
WIRELESS TELECOMMUNICATIONS FACILITIES, MICROWAVE RELAY
STATIONS, AND RADIO AND TELEVISION BROADCAST ANTENNAS**

Sec. 30-692.1. Intent statement.

The growth of commercial wireless communications has resulted in a need for additional antenna sites, with such need marked by not only the number of facilities required, but also the

AYES: 8 NOES: 0 ABSTAIN: _____

ADOPTED: JUNE 25 2018 REJECTED: _____ STRICKEN: _____

geographic distribution. Other technological changes in the traditional radio and television broadcast industry and in the use of microwave voice and data transmission are resulting in similar increased demand for antenna sites. These services of the utilities and communications sector have merit and value for the community and region as a whole, but can also result in facilities which are in conflict with the existing or planned character of the surrounding area. It is the intent of the City to create an expanded range of opportunities to accommodate continued growth of the services, while guiding the design of the facilities in a manner that takes into account the existing or planned character around a proposed site. These opportunities include the establishment of facilities through installation ~~[of]~~ on existing buildings (alternative support structures) ~~[in most districts]~~, the establishment of new facilities through the construction of new monopoles ~~[in industrial districts]~~, flexibility for the use of properties which may be nonconforming or may already be subject to special use permits or community unit plans, and greater flexibility for the development of facilities on City property where larger sites or existing nonresidential uses may result in a less intrusive installation when compared to other nearby properties.

Sec. 30-692.2. Standards applicable to all wireless ~~[facilities]~~ facility ~~[and antennas]~~ projects.

(a) In addition to meeting minimum submission requirements for ~~[plan of development and building permit applications]~~ any application materials the Director may require, requests for approval for wireless ~~[communications facilities]~~ facility projects shall include the following:

- (1) The applicant's narrative containing the following information:
 - a. The address and latitude/longitude of the proposed location;

b. A description of communications/broadcast services which the applicant intends to provide at the site;

c. The methodology behind the site selection (i.e., describe alternative sites considered in the site selection process and why the proposed site is the most suitable);

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

e. The measures that will be taken to ensure compatibility with surrounding properties;

f. A statement acknowledging removal of antennas upon termination of the use;

g. A statement indicating compliance with NIER standards;

h. A noninterference statement;

i. A statement indicating [~~willingness to allow and~~] the feasibility of collocation of other users at the site; and

j. A statement indicating whether the site will be shared with the City if needed for public safety purposes.

(2) A map showing the location of the proposed site and the location of existing facilities operated or owned by the applicant within the City and within three miles of the corporate limits, with an accompanying description of each facility (address, latitude/longitude, height of support structure, mounting height of antenna array, and willingness to allow and feasibility of collocation of other users at site).

(3) Plans required for applications shall also clearly depict the following:

a. The location of the facility within the overall property, the access point from a public street, the location of other structures within 100 feet.

b. A detailed layout plan consisting of a site plan, roof plan, floor plan, as applicable to the specific proposal.

c. Detailed elevation drawings showing the location and type of antenna array, the structural element to which the array will be affixed, and for mounts using alternative support structures, any architectural device used to incorporate the array into building/structure design, the location and materials of any security fencing where required.

d. The location and details of lighting when required.

e. The location, type of equipment, noise suppression measures and operational procedure for any emergency power supply.

f. The color of antennas, cables, support structure.

g. Landscape plans-minimum evergreen hedge for the base of the support structure and ground-mounted equipment, with additional trees for support structure screening.

(b) There shall be no signage identifying the site except for a single nameplate not exceeding four square feet in sign area.

(c) Any [~~antenna, support structure, and/or related electronic equipment~~] wireless facility, wireless support structure, and other equipment supporting the wireless facility which has not been used for the purpose of radio transmission or wireless communication 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.

Sec. 30-692.3. Permitted use of alternative support structures.

~~[Where permitted by the underlying zoning district regulations, use]~~ Use of alternative support structures for the uses described in this division shall be permitted on nonconforming properties and properties which are already subject to special use permits, institutional master plans or community unit plans. Such installations shall be deemed to be a permitted alteration of a nonconforming property and shall be deemed in substantial conformance with the special use permit, institutional master plan or community unit plan, provided the installation is in conformance with the review criteria set forth in Section 30-692.4(b) ~~[and (c)]~~, as determined by plan of development review, if required, in accordance with Article X of this chapter for nonconforming properties and properties subject to special use permits or institutional master plans, and by final plan review, if required, in accordance with Article IV, Division 30 of this chapter for properties subject to community unit plans.

Sec. 30-692.4. Review criteria for installations utilizing alternative support structures.

(a) The authorization in this chapter for use of alternative support structures provides a less obtrusive alternative to the traditional monopole and tower-based facilities by accommodating installations that are a companion and subordinate use in conjunction with a permitted principal or accessory use of a property. Such installations may include but not be limited to rooftop installations; installations on the face of buildings and on the exterior of otherwise permitted rooftop mechanical enclosures; installations on otherwise permitted water towers serving municipal, business or industrial uses; and installations within otherwise permitted ornamental towers and steeples. ~~[The specific review criteria set forth in this section~~

~~are intended to result in installations in the residential and less intensive office business districts which are only minimally visible when viewed from surrounding properties, with greater flexibility in the more intensive office and business districts.]~~

(b) The following standards shall be applicable to all installations on alternative support structures:

(1) The maximum combined projection (antenna and mounting hardware) above the alternative support structure shall not exceed 25 feet, except for whip antennas which may result in a combined projection of up to 35 feet, and the hardware on which antennas are mounted shall not project above the alternative support structure by more than 20 feet.

(2) ~~[Installations shall not be permitted on single and two family dwellings or on property containing such use.]~~

(3) ~~[Installations]~~ Notwithstanding the provisions of section 30-692.2(a), applicants for projects meeting the following criteria [shall not be subject to the review criteria set forth in Subsections (c) and (d) of this section,] shall be required to apply for and obtain a certificate of zoning compliance and shall not be [require] required to obtain a plan of development or final community unit plan approval:

a. The maximum combined projection (antenna and mounting hardware) above the alternative support structure shall not exceed ten feet; provided, however, if the installation is visible from the principal street frontage, then the maximum combined projection (antenna and mounting hardware) above the alternative support structure shall not exceed five feet in height.

b. The maximum dimensions of the antenna shall not exceed two feet by two feet by two feet or an alternative design not to exceed three cubic feet.

c. The maximum dimensions of any new mechanical enclosures or cabinets located on a support structure where they would be visible shall not exceed five feet by two feet by two feet.

d. Any portion of the installation that is visible from the principal street frontage shall be designed and colored to appear as an element of the alternative support structure, including the use of antennas, cables and equipment that are painted or tinted to match the surface of the alternative support structure to which they are affixed.

~~[(e) The following additional review criteria are applicable in residential districts; in the RO-1 and RO-2, UB, UB-2, B-1 and B-2 and I districts; on properties with nonconforming uses or features; and on properties already subject to special use permits or community unit plans:~~

~~(1) The property on which the installation is to occur shall contain no less than 12,000 square feet of lot area, shall be developed with an existing building containing a minimum of 14,000 square feet of floor area, and the mounting height on the alternative support structure shall be no less than 45 feet.~~

~~(2) The antennas and related mounting hardware and cables shall be designed and arranged so as to be integrated into the design of the alternative support structure, except that whip antennas may extend up to 20 feet above the support structure. Methods of integration shall include but not be limited to concealment of the equipment within the support structure or within design elements attached to the support structure, the use of~~

~~antennas, cables, and equipment that are painted or tinted to match the surface of the support structure on which they are affixed.~~

~~(3) Any new mechanical enclosures or cabinets located on a support structure where they would be visible shall not exceed a height of six feet, a floor area of 100 square feet per installation, or an aggregate of ten percent of roof area, whichever is less, and interior space devoted to such installation shall not exceed five percent of the total floor area of the building. Any new enclosures or cabinets shall be designed and colored so as to appear to be an element of the support structure.~~

~~(d) The following additional review criteria are applicable in RO 3, B 3, B 4, B 5, B 6, B 7, TOD 1, RF 1, RF 2, CM and M 1 districts where the alternative support structure has a height of less than 65 feet:~~

~~(1) The maximum combined projection (antenna and mounting hardware) above the alternative support structure shall not exceed 15 feet except for whip antennas which may result in a combined projection of up to 20 feet, and the hardware on which antennas are mounted shall not project above the alternative support structure by no more than 10 feet.~~

~~(2) Unconcealed dish antennas shall not exceed a diameter of nine feet.]~~

Sec. 30-692.5. Review criteria for installations utilizing new [support] structures and for installations on existing [support] structures.

(a) In addition to the information to be contained in the narrative required by Section 30-692.2, ~~[the applicant]~~ an application for a new structure shall thoroughly document the reasons the proposed ~~[antennas]~~ wireless facilities to be placed thereon could not be accommodated on nearby existing ~~[buildings]~~ structures or be ~~[collocated]~~ co-located with other

users on nearby existing monopoles or towers and that the new [support] structure is the only feasible option.

(b) All new [support] structures shall be limited to monopole designs^[7] only, and shall be subject to the following locational standards:

(1) There shall be a setback of 500 feet from any property within an R or RO zoning district and a setback of 1,000 feet from the shoreline of the James River. In no case shall a setback exceed the largest setback imposed by this chapter 30 on other types of similar structures of a similar size, including utility poles.

~~(2) [There shall be a setback of 1,000 feet from the shoreline of the James River.~~

~~(3)]~~ The maximum height of any monopole and antenna array shall be 199 feet, except that for any monopole and antenna array proposed within 1,000 feet of the right-of-way of an interstate highway, the height shall not exceed 155 feet.

~~(c) [For any new monopole proposed to be over 110 feet in height, in addition to the information to be contained in the narrative required by Section 30-692.2, the plans and an accompanying engineer's statement shall demonstrate that the proposed monopole is designed to accommodate two additional users (designed with increased height and loadbearing capacity), and it should be stated in the narrative required by Section 30-692.2 that the owner will lease to additional users. This requirement for additional design capacity may be waived by the Director when the applicant has provided information from other communications services that the site is not needed and/or when the particular location requires a reduced visual impact and the limited design capacity provides that reduced visual impact due to reduced monopole width and height.~~

~~(d)~~ The antenna array shall be designed to present the least horizontal dimension possible. Where the proposed array is not designed either as a tubular antenna array (unicell) or as cluster-mounted array (panel antennas affixed directly to the side of the monopole), in addition to the information to be contained in the narrative required by Section 30-~~692.2~~ 692.2:1, a statement shall be provided as to why those types of hardware are not technically feasible.

~~(e)~~ (d) The support structure and antenna array shall be of a color that is of neutral tone, selected to blend with the natural background (e.g., gray, light blue or silver if in open ground; green if among trees).

~~(f)~~ (e) There shall be no lighting of the support structure or antenna array unless required by the City or State or Federal agency.

~~(g)~~ (f) Dish antennas as part of a microwave relay facility shall not exceed ten feet in diameter.

~~(h)~~ (g) When microwave dish antennas are accessory to a wireless ~~[communication]~~ facility ~~[or radio or television broadcast antenna]~~ and are to be mounted on the monopole, such dishes shall not exceed six feet in diameter and shall not be mounted so as to extend more than six feet from the monopole.

Sec. 30-692.6. Criteria for installations ~~[on City-owned property]~~ of public wireless facilities and support structures.

~~[Where permitted by the zoning district regulations, the]~~ The installation of any public wireless [communications facility, microwave relay facility, or radio and television broadcast antenna and support structures] facility and wireless support structures shall not be subject to the requirements of Sections 30-692.2 through 30-692.5, but shall instead be subject to location,

character and extent approval by the Planning Commission in accordance with the requirements of Section 17.07 of the Charter.

Sec. 30-692.7. Installation of small cell facilities on ~~[existing]~~ alternative support 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]~~ alternative support 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]~~ alternative support structure to co-locate equipment on that ~~[existing]~~ alternative support 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, alternative support structure, utility pole, or wireless support structure. "Co-location" has a corresponding meaning.~~

~~*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 alternative support 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, such as microwave relay facilities, 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(e)(7)(C)(i); (ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(e)(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 alternative support structure or other 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.]~~

~~[(e)]~~ No small cell facility shall be co-located on any ~~[existing]~~ alternative support structure and no building permit authorizing the co-location of any small cell facility on any ~~[existing]~~ alternative support 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)]~~ (c) 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]~~ alternative support structure on which the small cell facility will be co-located;

(3) The owner of the ~~[existing]~~ alternative support structure and an agreement or other evidence showing the owner has granted permission to the applicant to co-locate on the ~~[existing]~~ alternative support 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~~] alternative support 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~~] alternative support 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~~] alternative support 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]~~ alternative support structure and ground mounted equipment.

~~[(e)]~~ (d) 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)]~~ (e) 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~~] alternative support 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)~~] (f) 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)~~] (g) 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)~~] (h) 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.

Sec. 30-1030.1. When required.

A plan of development shall be required for such uses in such districts as specified in Article IV and Article IX of this chapter pertaining to district regulations, and no certificate of use and occupancy for a newly established use requiring a plan of development and no building permit, land disturbing permit or driveway permit involving the construction, enlargement, conversion, exterior modification or relocation of a building, structure or site occupied or intended to be occupied by such use shall be approved by the Zoning Administrator, granted by the Commissioner of Buildings or issued by any other City official unless required plans for such use, building or site shall have been reviewed and approved by the Director of Community Development, in accordance with the requirements set forth in this article. A plan of development shall not be required for wireless communications facilities meeting the criteria set forth in Section [~~30-692.4(b)(3)~~] 30-692.4(b)(2). In the case of changes or modifications to the site of a use existing at the effective date of this provision, the following shall apply:

(1) For a use that requires a plan of development under the provisions of this chapter, but for which no plan of development has previously been approved, a plan of development shall be required for:

- a. Construction of any new building or of any addition to an existing building when such new building or addition occupies a cumulative total of more than 1,000 square feet of lot coverage, provided that a plan of development shall be required for any industrialized building located in an R district; or
- b. Any increase in the number of dwelling units on the site; or

c. Enlargement of the site occupied by the use when such enlargement exceeds a cumulative total 1,000 square feet of lot area; or

d. Addition of a cumulative total of more than 1,000 square feet of outdoor area devoted to active recreation or play area on the site; or

e. Construction of a new parking area, expansion of an existing parking area by five or more spaces, or any material alteration of the arrangement of any parking area, loading area or related vehicle circulation or maneuvering area.

(2) For a use that requires a plan of development under the provisions of this chapter, and for which a plan of development has previously been approved, an amended plan of development shall be required for:

a. Construction of any new building or of any enlargement of a building or site occupied by the use; or

b. Construction of a new parking area, expansion of an existing parking area by five or more spaces, or any material alteration of the arrangement of any parking area, loading area or related vehicle circulation or maneuvering area; or

c. Any material change in the exterior of a building, landscaping, screening, signage, lighting, or any other feature specifically addressed by the previously approved plan of development.

§ 2. That Chapter 30, Article VI, Division 11 of the Code of the City of Richmond (2015) be and is hereby amended and reordained by **adding therein new** sections numbered 30-692.1:1 and 30-692.1:2 as follows:

Sec. 30-692.1:1. Definitions.

The following words, terms, and phrases, when used in this division 11, shall have the meanings ascribed to them in this section, except where the context clearly indicates that a different meaning is intended:

Administrative review-eligible project means a project that provides for:

1. The installation or construction of a new structure that is not more than 50 feet above ground level, provided that the structure with attached wireless facilities is (i) not more than 10 feet above the tallest existing utility pole located within 500 feet of the new structure within the same public right-of-way or within that existing line of utility poles; (ii) not located within the boundaries of a local, state or federal historic district; (iii) not located inside the jurisdictional boundaries of a locality having expended a total amount equal to or greater than 35 percent of its general fund operating revenue, as shown in the most recent comprehensive annual financial report, on undergrounding projects since 1980; and (iv) designed to support small cell facilities; or

2. The co-location on any alternative support structure of a wireless facility that is not a small cell facility.

Alternative support 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. “Alternative support 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.

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, alternative support structure, utility pole, or wireless support structure. “Co-location” has a corresponding meaning.

Director means the Director of Planning and Development Review or the designee thereof.

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.

New structure means a free-standing wireless support structure, as opposed to a co-located wireless facility, that has not been installed or constructed, or approved for installation or construction, at the time a wireless services provider or wireless infrastructure provider applies to a locality for any required zoning approval.

Project means (i) the installation or construction by a wireless services provider or wireless infrastructure provider of a new structure or (ii) the co-location on any alternative support structure of a wireless facility that is not a small cell facility. “Project” does not include the installation of a small cell facility by a wireless services provider or wireless infrastructure provider on an alternative support structure to which the provisions of section 30-692.7 apply.

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 alternative support structure.

Standard process project means any project other than an administrative review-eligible project.

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, 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, such as microwave relay facilities, 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 alternative support structure or other 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.

Sec. 30-692.1:2. Applications for the installation or construction of projects.

(a) All applications to install or construct projects in the City shall be submitted to the Director in the form of a plan of development, all documentation required in section 30-692.2,

and any other documentation the Director may require. A fee as set forth in Appendix A to this Code shall accompany the submittal of each application.

(b) Applicants for standard process projects whose proposed projects do not meet applicable criteria of this division 11 may either modify their proposed projects to comply with this division or seek initial approval for their projects by separate application for a special use permit, variance, or other available means of zoning approval. A fee as set forth in Appendix A to this Code shall accompany the submittal of each application for a special use permit, variance, or other available means of zoning approval. Notwithstanding anything to the contrary in this chapter 30, applicants desiring to install or construct administrative review-eligible projects shall not be required to obtain a special exception, special use permit, or variance.

(c) The City shall notify the applicable project applicant by email within ten business days after receiving an incomplete application for any purpose described in subsections (a) or (b) of this section. Such notice shall specify any additional information required to complete the application. Failure by the City to so provide this notice will render the application complete.

(d) Unless the City and applicant mutually agree to extend the application review period, the City shall approve or disapprove a complete application for any purpose described in subsections (a) or (b) of this section within the following periods of time:

(1) For a new structure, within the lesser of 150 days of receipt of the completed application or the period required by federal law for such approval or disapproval;

(2) For the co-location of any wireless facility that is not a small cell facility, within the lesser of 90 days of receipt of the completed application or the period required

by federal law for such approval or disapproval, unless the application constitutes an eligible facilities request as defined in 47 U.S.C. § 1455(a).

Failure by the City to approve any such complete applications within the applicable periods above shall render such applications approved.

(e) Following disapproval by the City of any application described in subsections (a) or (b) of this section, the City shall provide the applicant with a written statement of the reasons for such disapproval. If the City is aware of any modifications to the project described in the application that if made would permit the City to approve the project, the City will identify them in such written statement. Subsequent disapproval by the City of a project application incorporating such identified modifications may be used by the applicant as evidence in any appeal asserting the City's disapproval was arbitrary and capricious.

(f) Disapproval by the City of any application described in subsections (a) and (b) of this section shall (i) not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services, and (ii) be supported by substantial record evidence contained in a written record publicly released within thirty days following the disapproval.

(g) Applications described in section 30-692.4 below shall be subject to subsections (c) through (f) of this section.

§ 3. This ordinance shall be in force and effect on July 1, 2018.



CITY OF RICHMOND
INTRACITY CORRESPONDENCE

MAY 22 2018
4-7833
Office of the
Chief Administrative Officer

O&R REQUEST

DATE: May 21, 2018

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor *JM for LMS*

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer *SCG*

THROUGH: Peter L. Downey, Deputy Chief Administrative Officer for Economic Development and Planning *PLD 5-22-18*

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

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

EDITION: 1
RECEIVED

MAY 25 2018

OFFICE OF CITY ATTORNEY

ORD. OR RES. No. _____

PURPOSE: To amend and reordain ch. 30, art. VI, Division 11 and section 30-1030.1 of City Code, concerning applications to construct and install wireless structures and facilities and City criteria for approving such applications, for the purpose of reflecting amendments to state law.

REASON: The proposed ordinance would conform certain sections of the City Code with the amendments to the Virginia Code made by HB 1258 during the 2018 General Assembly Session.

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 amendments to the Virginia Code, made by HB 1258 during the 2018 General Assembly Session, concerning applications to construct and install wireless structures and facilities and City criteria for approving such applications. The proposed Code amendments are attached to this O&R request.

FISCAL IMPACT / COST: The Department of Planning and 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: \$500.00 for each application received.

DESIRED EFFECTIVE DATE: July 1, 2018

REQUESTED INTRODUCTION DATE: May 29, 2018

CITY COUNCIL PUBLIC HEARING DATE: June 25, 2018

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 and section 1030.1.

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

ATTACHMENTS: Draft Amendments to City Code ch. 30, art VI, Division 11 and section 1030.1.

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



CITY OF RICHMOND

PLANNING COMMISSION

MAY 21, 2018

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 IMPOSING LIMITS ON THE ABILITY OF LOCALITIES TO REGULATE THE CONSTRUCTION AND INSTALLATION OF WIRELESS COMMUNICATIONS FACILITIES THROUGH ZONING REGULATIONS.

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 align certain sections of the City Code with the amendment to the Virginia Code adding to Chapter 22 of Title 15.2 an article numbered 7.2 concerning zoning for wireless communications facilities;

NOW, THEREFORE BE IT RESOLVED, that the City Planning Commission hereby declares that the public necessity, convenience, general welfare and good zoning practices of the City require the initiation of an amendment to the City Zoning Ordinance for the purpose of bringing the City Zoning Ordinance into compliance with an amendment to the Code of Virginia imposing limits on the ability of localities to regulate the construction and installation of wireless communications facilities through zoning regulations;

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.


Rodney Poole
Chair, City Planning Commission


Matthew Ebinger
Secretary, City Planning Commission