



## CITY OF RICHMOND

### Department of Planning & Development Review *Staff Report*

**CPCR 2018-052:** To amend and reordain ch. 30, art. VI, Division 11 of the City Code by renumbering and amending existing sections therein and adding new sections numbered 30-692.2 and 30-692.3 for the purpose of reflecting amendments to state law imposing limits on a locality's ability to regulate the construction and installation of wireless communications facilities.

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**To:** City Planning Commission  
**From:** Land Use Administration  
**Date:** May 21, 2018

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#### **PETITIONER**

City of Richmond

#### **LOCATION**

Citywide

#### **PURPOSE**

To amend and reordain ch. 30, art. VI, Division 11 of the City Code by renumbering and amending existing sections therein and adding new sections numbered 30-692.2 and 30-692.3 for the purpose of reflecting amendments to state law imposing limits on a locality's ability to regulate the construction and installation of wireless communications facilities.

#### **SUMMARY & RECOMMENDATION**

The proposed amendments to the City Zoning Ordinance are the result of a 2018 act of the General Assembly that considerably narrows the ability of localities to subject the construction, installation and location of wireless communications facilities, defined as "administrative review-eligible projects" and "standard process projects," to zoning regulations. In order to remain compliant with the Code of Virginia, the City Zoning Ordinance must be amended accordingly.

Staff therefore recommends approval of the Resolution of Intent to amend the City Zoning Ordinance.

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#### **FINDINGS OF FACT**

##### **Background**

The Code of Virginia defines an "administrative review-eligible project" as:

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 existing structure of a wireless facility that is not a small cell facility.

The Code of Virginia defines “standard process project” as:

Any project other than an administrative review-eligible project,

where a “project” is:

(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 existing structure of a wireless facility that is not a small cell facility.

### **Proposed Zoning Amendment**

The City Zoning Ordinance would be amended to include the definitions listed above and others, to set forth timelines and rules relating to the consideration, acceptance and rejection of applications to construct and install wireless communications facilities, and to adjust the criteria used by the City to evaluate such applications.

The amendment establishes that applicants desiring to install or construct administrative review-eligible projects shall not be required to obtain a special exception, special use permit, or variance, and, because all co-locations of wireless facilities fall within this definition, the amendment removes many of the criteria currently used to evaluate such projects.

The amendment also removes those criteria and conditions upon which localities may no longer rely to evaluate any application for the construction or installation of a wireless communications facility, whether an administrative review-eligible project or a standard process project.

**Staff Contact:** Matthew J. Ebinger, AICP, Principal Planner (804) 646-6308