

INTRODUCED: June 26, 2017

AN ORDINANCE No. 2017-134

To amend and reordain ch. 24, art. II of the City Code by adding therein a new div. 11, consisting of new sections 24-273 through 24-277, and to amend Appendix A of the City Code by adding therein a new fee for section 24-275, concerning the co-location of small cell facilities on existing structures, for the purpose of reflecting amendments to state law.

\_\_\_\_\_  
Patron – Mayor Stoney

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

PUBLIC HEARING: JULY 24 2017 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That Chapter 24, Article II of the Code of the City of Richmond (2015) be and is hereby amended and reordained by **adding therein a new** Division 11 consisting of sections numbered 24-273 through 24-277, as follows:

**DIVISION 11.**

**CO-LOCATION OF SMALL CELL FACILITIES ON EXISTING STRUCTURES**

**Sec. 24-273. Definitions.**

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

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ADOPTED:    JULY 24 2017    REJECTED: \_\_\_\_\_    STRICKEN: \_\_\_\_\_

meaning is intended. Any word, term, or phrase not defined in this section but defined elsewhere in this chapter shall, when used in this division, have the meanings ascribed to them in this chapter.

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

*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. The term “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.

*Permit granting access to streets for co-location of small cell facilities on existing structures* means a permit authorizing a wireless service provider or wireless infrastructure provider to access public streets for the purpose of co-locating a small cell facility on an existing structure.

*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, ground-based enclosures, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

*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 services 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, including a person authorized to provide telecommunications service in the state, 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.

**Sec. 24-274. Access to streets for co-location of small cell facilities on existing structures.**

Notwithstanding anything to the contrary in this chapter 24 and subject to the provisions of this division, any wireless services provider or wireless infrastructure provider may access streets within the City of Richmond for the purpose of co-locating small cell facilities on existing structures, provided that the wireless provider or wireless infrastructure provider has permission from the owner of the existing structure to co-locate equipment on such existing structure, and provided that the wireless service provider or wireless provider obtains a permit granting access to streets for co-location of small cell facilities on existing structures for such facilities pursuant to this division.

**Sec. 24-275. Permit granting access to streets for co-location of small cell facilities on existing structures.**

(a) Applications for any permit granting access to streets for co-locations of small cell facilities on existing structures shall be submitted to the Director of Public Works or the designee thereof on such application form and subject to such written procedures as the director may establish for such purpose. A permit fee and processing fee as set forth in Appendix A shall accompany each application.

(b) The following information and materials shall be submitted with any application for a permit granting access to streets for co-location of small cell facilities on existing structures. Any application not containing all of the following information may be deemed incomplete by the Director of Public Works 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 owner of each 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.

(3) Detailed plans clearly depicting the following, provided that the Director of Public Works or the designee thereof may, in the Director's discretion, deem any plans not sealed by a certified land surveyor or professional engineer incomplete:

a. Scaled drawing detailing the location of the existing structure on which the small cell facility will be co-located. The following should be included:

(1) the names of streets in the vicinity;

(2) the precise location of the existing structure in the streets including the distance to the street's right-of-way lines;

(3) approximate lot lines of adjacent property along with parcel number, address and owner's name.

(4) nearby features, shown with labels, including but not limited to sidewalks, curb, pavement, houses, and buildings.

(5) the owner of the existing facility and any identifying tags

b. A detailed plan (overhead) view of the small cell facility including the dimensions and specifications of the antennae, base station, and all other associated wireless equipment

c. A detailed elevation (profile) drawing showing the co-location of the small cell facility on the existing structure; drawing shall show and label the proposed small cell facility, including the base station and all other associated equipment as well as all existing facilities and attachments on the existing structure. Dimensioning shall be included to indicate the heights and separations of the proposed and existing facilities

(c) Applicants shall be subject to those certain provisions and requirements set forth in sections 24-62(a)(4) through 24-62(a)(10).

(d) Within 10 days after receipt of an application and a valid electronic mail address for the applicant, the Director of Public Works, 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 Public Works, 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 Public Works, 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 Public Works, 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 Public Works, or the designee thereof, does not disapprove the application within 90 days of receipt of the completed application.

(e) Provided the applicant is in compliance with all provisions of this section, the Director of Public Works, or the designee thereof, shall not impose on any applicant restrictions or requirements that are unfair, unreasonable, or discriminatory. The Director of Public Works, or designee thereof, shall not require any applicant to provide in-kind services or physical assets as a condition of granting a permit granting access to streets for co-locations of small cell facilities on existing structures.

**Sec. 276. Micro-wireless facilities.**

Notwithstanding anything to the contrary in this division, 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 set forth herein, unless the activities undertaken include any of the following, in which case the wireless service provider or wireless infrastructure provider shall obtain a permit prior to commencing such activities:

(a) The activities involve working within a street travel lane or require closure of a street travel lane.

(b) The activities disturb the pavement, shoulder, roadway, or ditch line.

(c) The activities include placement on limited access rights-of-way.

(d) The activities require any specific precautions to ensure the safety of the traveling public or the protection of public infrastructure or the operation thereof, and either were not authorized in or will be conducted in a time, place, or manner that is inconsistent with terms of the existing permit for that facility or the structure upon which it is attached.

**Sec. 277. Provisions of division limited.**

The provisions of this division apply solely to wireless service providers and wireless infrastructure providers accessing streets for the sole purpose of co-locating small cell facilities on existing structures, provided the wireless service provider or wireless infrastructure provider has permission from the owner of the existing facility. Nothing herein shall be deemed to grant permission to otherwise access, use, or encroach upon the streets. Nothing herein shall be deemed to grant permission to replace or expand any existing structure or to otherwise install any structure. Nothing herein shall be deemed to grant permission to co-locate on any existing structure owned by the City.

§ 2. That Appendix A of the Code of the City of Richmond (2015) be and is hereby amended and reordained by **adding therein a new** fee for section 24-275 of the Code of the City of Richmond (2015) as follows:

| <i>Code Section</i> | <i>Description</i>  | <i>Fee</i> |
|---------------------|---|------------|
| 24-275              | Application fee for access to streets for co-locations of small cell facilities on existing structures permit | \$250.00   |



§ 3. This ordinance shall be in force and effect upon adoption.



CITY OF RICHMOND
INTRACITY CORRESPONDENCE

O & R REQUEST
4-6639
JUN 9 2017
Office of the
Chief Administrative Officer

O&R REQUEST

DATE: June 7, 2017 EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor (By Request) [Signature] 6/22/17

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer [Signature]

THROUGH: Robert Steidel, Interim Deputy Chief Administrative Officer [Signature]

THROUGH: Bobby Vincent, Interim Director
Department of Public Works [Signature]

THROUGH: M.S. Khara, P.E., City Engineer
Department of Public Works [Signature]

FROM: Brian Cople, Right of Way Manager
Department of Public Works [Signature]

RE: State-Mandated Amendments to Chapter 24 of the City Code

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

RECEIVED
JUN 23 2017
OFFICE OF CITY ATTORNEY

PURPOSE: To amend and reordain Ch. 24, Art. II of the City Code by adding therein a new division, concerning co-location of small cell facilities on existing 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 Title 56 a chapter numbered 15.1, adopted February 2017, concerning access to public rights-of-way 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 Title 56 a Chapter numbered 15.1, adopted February 2017, concerning access to public rights-of-way for wireless communications infrastructure. The new division is attached to this O&R request.

**FISCAL IMPACT / COST:** None.

**FISCAL IMPLICATIONS:** None

**BUDGET AMENDMENT NECESSARY:** None.

**REVENUE TO CITY:** \$250 for each application received.

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

**REQUESTED INTRODUCTION DATE:** June 12, 2017.

**CITY COUNCIL PUBLIC HEARING DATE:** June 26, 2017.

**REQUESTED AGENDA:** Consent.

**RECOMMENDED COUNCIL COMMITTEE:** Land Use, Housing and Transportation

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** None.

**AFFECTED AGENCIES:** Public Works; Office of the City Attorney; Department of Planning and Development Review; Public Utilities; Office of CAO; Mayor's Office;

**RELATIONSHIP TO EXISTING ORD. OR RES.:** Amends City Code Chapter. 24 by adding a new division, and amends the corresponding fee schedule.

**REQUIRED CHANGES TO WORK PROGRAM(S):** Revisions to EnerGov work flow process will be necessary to accommodate fee change.

**ATTACHMENTS:** Amendments to City Code Chapter 24.

**STAFF:** Brian Copple, Chief of Construction/Permits Inspections, DPW, 646-3639  
Marvin Anderson, Superintendent of Survey, DPW, 646-5404.