



City of Harrisonburg, Virginia

Office of the City Manager

409 South Main Street
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Harrisonburg, VA 22802
(540) 432-7701 / FAX (540) 432-7778

G. Chris Brown
City Attorney

TO: Eric Campbell, City Manager
FROM: Wesley Russ, Assistant City Attorney
DATE: June 17, 2019
RE: Amendments to Allow Small Cell Facilities in City Right-of-Way

Summary: Consider adopting Title 6, Chapter 1, Article F of the City Code, “Small Cell Wireless Facilities in the Public Right-of-Way.”

Background: In 2017 and 2018, the General Assembly enacted new provisions governing how local governments treat requests to place small cell wireless communication facilities in the public right-of-way. Then, September 27, 2018, the Federal Communications Commission issued a declaratory ruling related to municipal restrictions on small cell wireless facilities in the right-of-way.

The proposed ordinance implements these new, mandatory regulatory provisions. Where there is conflict between the Virginia Code and the FCC declaratory ruling, the ordinance reflects the stricter option.

The ordinance covers two different installation types:

- 1) **Colocation:** The wireless service provider attaches their equipment (termed “small cell wireless facilities”) to pre-existing infrastructure. For example, they might attach to poles for city traffic signals or utility poles. In some cases where the existing pole cannot support the added weight, the service provider may remove the existing pole and replace it with one that visually appears similar but is designed to hold the greater weight.
- 2) **New Pole Installation:** The wireless service provider adds a new pole to the City right-of-way and attaches their equipment to the new pole. These poles are required to have a similar appearance to nearby poles, to ensure a relatively consistent appearance. In areas like downtown with decorative poles, the new poles will need to match the appearance of the decorative poles.

There are at least two service providers who are anxious for the city to adopt this ordinance, so they can begin to enhance coverage in key areas throughout the city.

Key Issues: In order to bring the City into compliance with state and federal law, the City must adopt some framework for wireless service providers to deploy small cells wireless facilities in the public right-of-way.

Environmental Impact: N/A

Fiscal Impact: Each application to install a small cell wireless facility or new pole requires a fee to offset the costs associated with the city’s review. The FCC requires these fees be “reasonable.” The proposed ordinance sets these fees as the amount that is presumed reasonable, according to the FCC’s declaratory ruling.



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Prior Actions: N/A

Alternatives:

- (a) Adopt proposed Title 6, Chapter 1, Article F; or
- (b) Deny proposed Title 6, Chapter 1, Article F.

Community Engagement: N/A

Recommendation: Staff recommends approval of the amendments as presented.

Attachments: 1. Proposed Title 6, Chapter 1, Article F, "Small Cell Wireless Facilities in the Public Right-of-Way."

Review:

The initiating Department Director will place in Legistar, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The completion of review only addresses the readiness of the issue for Council consideration. This does not address the recommendation for approval or denial of the issue.

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