

ORDINANCE NO. 5271

AN ORDINANCE to amend and reordain Section 6-403 (GENERAL REGULATIONS AND EXCEPTIONS) of Article VI (SPECIAL AND OVERLAY ZONES) and Section 7-1201 (PERMITTED UTILITIES), Section 7-1202 (SPECIAL USE UTILITIES), Section 7-1205 (RADIO AND TELEVISION RECEPTION OR TRANSMISSION STRUCTURES), and Section 7-1206 (GENERAL PROVISIONS PERTAINING TO INSTALLATION OF WIRELESS FACILITIES) of Article VII (SUPPLEMENTAL ZONE REGULATIONS) and add Section 7-1207 (INSTALLATION OF SMALL CELL FACILITIES ON EXISTING STRUCTURES), Section 7-1208 (INSTALLATION OF STANDARD FACILITIES ON EXISTING STRUCTURES), Section 7-1209 (INSTALLATION OF NEW STRUCTURES TO SUPPORT SMALL CELL FACILITIES), Section 7-1210 (INSTALLATION OF A NEW STRUCTURE TO SUPPORT STANDARD FACILITIES), Section 7-1211 (MODIFICATION, REPLACEMENT, OR INSTALLATION OF ADDITIONAL WIRELESS FACILITIES ON AN EXISTING STRUCTURE), and Section 7-1212 (AESTHETIC STANDARDS GOVERNING WIRELESS FACILITY INSTALLATIONS) of Article VII (SUPPLEMENTAL ZONE REGULATIONS) of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2019-00008.

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2019-0008, the Planning Commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, recommended approval to the City Council on February 4, 2020 of a text amendment to the Zoning Ordinance to adopt provisions relating to telecommunications and wireless facility regulations to conform with state and federal law, which recommendation was approved by the City Council at public hearing on February 22, 2020;
2. The City Council in adopting this ordinance expressly adopts, ratifies, affirms and concurs in the finding and action of the Planning Commission above stated;
3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 6-403 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

6-403 - General regulations and exceptions.

(D) All radio and television reception or transmission structures may be erected only in compliance with Section 7-1205 ~~and Section 7-1206~~ through Section 7-1212.

Section 1. That Section 7-1201 of the Zoning Ordinance be, and the same hereby is, amended by inserting new language shown in underline, as follows:

7-1201 - Permitted utilities.

The following utilities are permitted in any zone in the city: the erection, construction, alteration or maintenance by public utilities, public service corporations, municipal departments, public commissions or public authorities of underground gas, steam, water or sewage supply, collection or disposal systems and underground or overhead electric, communication, telephone or cable transmission or distribution systems, including poles, wires, lines, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, freestanding pad mounted transformers and electric switches, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate services by such utilities, corporations, departments, commissions or authorities, or for the public health, safety or general welfare; provided, that such freestanding pad mounted transformers and electric switches have been approved after public hearing by site plan, special use permit or certificate of appropriateness or as part of the city's capital improvement program, or have been approved either by both the director of transportation and environmental services and the director of planning and zoning, in accordance with guidelines established by the directors and approved by city council, after affording informal notice and opportunity to comment to affected parties or by city council, after public hearing, on an appeal from disapproval by one or both directors. Notwithstanding the foregoing, wireless facilities shall be regulated by sections 7-1206 through 1212.

Section 2. That Section 7-1202 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

7-1202 - Special use utilities.

~~The following utility uses are permitted by public utilities, public service corporations, municipal departments, public commissions or public authorities only with a special use permit:~~

- ~~(A) Tanks, towers, standpipes or other facilities for storing water, sewage or other liquids or gases, electric power substations, telephone exchange buildings and structures, and pumping stations;~~
- ~~(B) Overhead transmission, distribution or communication wires, lines, cables or facilities for the transmission of telecommunication suspended, mounted or carried by poles, towers or other structures which:
 - ~~(1) Exceed 65 feet in height;~~
 - ~~(2) Have one or more arms, cross arms or similar apparatus which would extend out more than six feet from the side thereof;~~
 - ~~(3) Have a diameter in excess of three feet if it is a pole like structure; or~~
 - ~~(4) Exceed four square feet in area at any cross section, or have a side exceeding two feet in width if it is a tower or other type structure.~~~~
- ~~(C) Notwithstanding the foregoing, small cell facilities shall be regulated by section 7-1206.~~

- (A) Special use permit required. The following utility uses are permitted by public utilities, public service corporations, municipal departments, public commissions or public authorities only with a special use permit:
- (1) Tanks, towers, standpipes or other facilities for storing water, sewage or other liquids or gases, electric power substations, telephone exchange buildings and structures, and pumping stations; and
 - (2) Overhead transmission, distribution, or communication wires, lines, or cables, and facilities for the transmission of wireline communications that are suspended, mounted on, or carried by poles, towers or other structures which:
 - (i) Exceed 50 feet in height;
 - (ii) Have one or more arms, cross arms or similar apparatus which would extend out more than six feet from the side thereof;
 - (iii) Have a diameter in excess of three feet if it is a pole-like structure; or
 - (iv) Exceed four square feet in area at any cross section, or have a side exceeding two feet in width if it is a tower or other type structure.
- (B) Exception. Notwithstanding the foregoing, wireless facilities shall be regulated by sections 7-1206 through 7-1212.

Section 3. That Section 7-1205 of the Zoning Ordinance be, and the same hereby is, amended by inserting new language shown in underline, as follows:

7-1205 - Radio and television reception or transmission structures.

All radio and television reception or transmission structures may be erected in accordance with the following criteria:

- (1) Whether the proposed size and height of the structure is compatible with the height and scale of adjacent buildings and is the minimum necessary to conduct the anticipated transmission or reception activity;
- (2) Whether the proposed location of the structure is one that has the least negative impact on surrounding buildings and neighborhoods of the locations available and is the least visible position which still provides adequate transmission and reception; if there is no unobtrusive location for the structure, whether alternative methods of achieving transmission or reception are reasonably feasible; and
- (3) Whether the proposed material and screening of the structure is adequate and appropriate to minimize the visual impact of the structure. This section does not apply to small cell facilities, standard facilities, or receiving antennas subject to 47 C.F.R. Section 1.4000.

Section 4. That Section 7-1206 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

7-1206 --~~Small cell facilities~~General provisions pertaining to installation of wireless facilities.

(A) ~~[Definitions.] For purposes of section 7-1206, the following definitions apply:~~

- ~~(1) *Antenna* means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.~~
- ~~(2) *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.~~
- ~~(3) *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 a locality or the Department of Transportation of the Commonwealth of Virginia 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.~~
- ~~(4) *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.~~
- ~~(5) *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.~~~~
- ~~(6) *Utility pole* means a structure owned, operated, or owned and operated by a public utility, local government, or the Commonwealth of Virginia that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity.~~
- ~~(7) *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.~~
- ~~(8) *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.~~

- (9) ~~Wireless services means (a) "personal wireless services" as defined in 47 U.S.C. § 332(e)(7)(C)(i); (b) "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 (c) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.~~
- (10) ~~Wireless services provider means a provider of wireless services.~~
- (11) ~~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.~~
- (B) ~~Administrative approval. Notwithstanding any other provisions of this Zoning Ordinance, no special exception, special use permit, or variance shall be required for any small cell facility installed by a wireless services provider or wireless infrastructure provider on an existing structure, provided that the wireless services provider or wireless infrastructure provider:~~
- (1) ~~Has permission from the owner of the structure to co-locate equipment on that structure; and~~
 - (2) ~~Applies pursuant to this section.~~
 - (3) ~~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 these permitting requirements and fees.~~
- (C) ~~Application process. An applicant for a small cell facility permit shall file an application with the director on such forms and subject to such procedures as the director may establish for the purpose which shall include a statement identifying the applicant and providing a valid electronic mail address for the applicant. The application may include up to 35 permit requests on the same application. Within ten days after receipt of an application and a valid electronic mail address for the applicant, the director shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete.~~
- (D) ~~Filing fee. The fee for processing the application shall be \$100.00 each for the first five permit requests and \$50.00 for each additional permit request on an application.~~
- (E) ~~Action by the director. The application must be approved or disapproved by the director within 60 days of receipt of the complete application. Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval including the specific reason for disapproval pursuant to section 7-1205(F). The 60 day period may be extended by the director in writing for a period not to exceed an additional 30 days. The application shall be deemed approved if the director fails to act within the initial 60 days or the extended 30 day period. Approval for a permit shall not be unreasonably conditioned, withheld, or delayed.~~
- (F) ~~Reasons for disapproval limited. The director may disapprove a proposed location or installation of a small cell facility only 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) Conflict with the regulations in article X, historic districts and buildings of this ordinance.~~
- ~~(G) *Conditions of approval.* An applicant may voluntarily submit, and the director may accept, any conditions that otherwise address potential visual or aesthetic effects resulting from the placement of small cell facilities.~~
- ~~(H) *Abandoned facilities.* Nothing in this subsection shall preclude the director from adopting reasonable rules with respect to the removal of abandoned wireless support structures or wireless facilities.~~
~~(Ord. No. 3653, §§ 1, 2, 6-22-93; Ord. No. 3774, § 2, 1-21-95; Ord. No. 3844, § 1, 2-24-96; Ord. No. 5092, § 2, 11-18-17)~~

(A) Definitions. For purposes of sections 7-1206 through 7-1212, the following definitions apply:

- (1) Antenna means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.
- (2) Ancillary equipment means wireless facilities other than antennas and associated cabling, and includes radio transceivers, power supplies, and other equipment associated with an antenna but not integrated with an antenna into a single component.
- (3) 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.
- (4) 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 or the Department of Transportation of the Commonwealth of Virginia 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 lattice towers, monopoles, buildings, utility poles, light poles, flag poles, signs, and water towers.
- (5) 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.
- (6) New structure means a wireless support structure 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. New structure does not include any utility pole as defined in Section 7-1206(A)(10).
- (7) Public right-of-way means the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive or bridge, in which the city holds a property interest or which is under the control or management of the city for use by the travelling public.
- (8) Small cell facility means a wireless facility that meets each of the following conditions:
- (a) The facilities—
 - (i) Are mounted on structures 50 feet or less in height including their antennas; or
 - (ii) Are mounted on structures no more than 10 percent taller than other adjacent structures; or
 - (iii) Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
 - (b) Each antenna associated with the deployment, excluding ancillary equipment, is no more than three cubic feet in volume;
 - (c) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
 - (d) The facilities do not require antenna structure registration under Federal Communications Commission regulations; and
 - (e) The facilities do not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified in Federal Communications Commission regulations.
- (9) Standard facility means a wireless facility that does not meet the definition of small cell facility in section 7-1206(A)(8).
- (10) Utility pole means a structure owned, operated, or owned and operated by a public utility, the city, or the Commonwealth of Virginia that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity.
- (11) 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.
 - (iii) Wireless facility does not include radio or television broadcast facilities or amateur radio facilities, which are subject to Section 7-1205.

- (12) 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.
- (13) Wireless services means (a) personal wireless services as defined in 47 U.S.C. § 332(c)(7)(C)(i); (b) 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 (c) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.
- (14) Wireless services provider means a provider of wireless services.
- (15) 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.
- (B) Microwireless facilities. Notwithstanding anything to the contrary in this article, the installation, placement, maintenance, or replacement of microwireless 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 of this article.
- (C) Applications to include proposed wireless facilities. Any application for a new structure under this article shall include and identify the facilities to be attached to the proposed new structure. The director shall reject as incomplete any application for a new structure under this section that does not also propose installation of specific wireless facilities to be attached to the new structure.
- (D) Conditions of approval. Notwithstanding any other provision of this article, an applicant may voluntarily submit, and the city may accept, any conditions that otherwise address potential visual or aesthetic effects resulting from the placement of small cell facilities or standard facilities.
- (E) Abandoned facilities. Nothing in this subsection shall preclude the director from adopting reasonable rules with respect to the removal of abandoned wireless support structures or wireless facilities within 12 months in accordance with Section 2-101.
- (F) Construction Period. If the director or the city council approve an application and construction of the approved project has not commenced within two years of final approval any approved permit shall be deemed automatically revoked. If construction has commenced within two years of final approval, but has not been completed in that time, the director may request that the successful applicant demonstrate that construction is continuing and is being diligently pursued; if the director is not satisfied that construction will be completed within a reasonable time, the director may revoke any approved permit.

Editor's note— See Code of Virginia § 15.2-2316.3 related to subsections (A)(1), (A)(3) through (A)(6), (A)(9) through (A)(15); see 47 C.F.R. § 1.6002(1) related to subsection (A)(8); see Code of Virginia § 15.2-2316.4(C) related to subsection (B); see Code of Virginia § 15.2-2316.4(B)(5) related to subsection (D); see Code of Virginia § 15.2-2316.4(B)(6) related to subsection (E); and see Code of Virginia § 15.2-2316.4:2(A)(10) related to subsection (F).

Section 5. That Section 7-1207 of the Zoning Ordinance be, and the same hereby is, added and ordained, as shown:

7-1207 - Installation of small cell facilities on existing structures.

- (A) Administrative approval. Notwithstanding any other provisions of this zoning ordinance, no special exception, special use permit, or variance shall be required for any small cell facility installed by a wireless services provider or wireless infrastructure provider on an existing structure, provided that the wireless services provider or wireless infrastructure provider:
 - (1) Has permission from the owner of the structure to co-locate equipment on that structure; and
 - (2) Applies pursuant to this section.
- (B) Application process. An applicant for a permit under this section shall file an application with the director on such forms and subject to such procedures as the director may establish for the purpose which shall include a statement identifying the applicant and providing a valid electronic mail address for the applicant. The application may include up to 35 permit requests on the same application. Within ten days after receipt of an application and a valid electronic mail address for the applicant, the director shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete.
- (C) Filing fee. The fee for processing the application shall be \$100.00 each for the first five permits requested on a single application and \$50.00 for each additional permit request on an application.
- (D) Action by the director. The application must be approved or disapproved by the director within 60 days of receipt of the complete application. Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval including the specific reason for disapproval pursuant to section 7-1207(E). The application shall be deemed approved if the director fails to act within the 60 day period. Approval for a permit shall not be unreasonably conditioned, withheld, or delayed.
- (E) Reasons for disapproval limited. The director may disapprove a proposed location or installation of a small cell facility on an existing structure only 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;
 - (3) Other critical public service needs;
 - (4) In the case of an installation on or in the public rights-of-way or on other publicly owned or publicly controlled property, aesthetic impact as further specified in Section 7-1212, except for attachments to utility poles and other privately-owned structures where the applicant has an agreement for attachment to the structure;
 - (5) In the case of an installation on or in the public rights-of-way or on other publicly owned or publicly controlled property, the absence of all required approvals from all departments, authorities, and agencies with jurisdiction over such property,

except for attachments to utility poles and other privately owned structures where the applicant has an agreement for attachment to the structure; or

(6) Conflict with the regulations in article X, historic districts and buildings, of this ordinance.

(F) Exception. This section does not apply to any eligible facilities request, as defined in Section 7-1211(A).

Editor's note— See Code of Virginia § 15.2-2316.4(A) related to subsection (A); see Code of Virginia § 15.2-2316.4(B) related to subsection (B); see Code of Virginia § 15.2-2316.4(B)(2) related to subsection (C); see Code of Virginia §§ 15.2-2316.4(B)(1) and 15.2-2316.4(B)(3) related to subsection (D); and see Code of Virginia § 15.2-2316.4(B)(4) related to subsection (E).

Section 6. That Section 7-1208 of the Zoning Ordinance be, and the same hereby is, added and ordained, as shown:

7-1208 - Installation of standard facilities on existing structures.

(A) Administrative approval. Notwithstanding any other provisions of this zoning ordinance, no special exception, special use permit, or variance shall be required for any standard facility installed by a wireless services provider or wireless infrastructure provider on an existing structure, provided that the wireless services provider or wireless infrastructure provider applies pursuant to this section.

(B) Application process. An applicant for a permit under this section shall file an application with the director on such forms and subject to such procedures as the director may establish for the purpose which shall include a statement identifying the applicant and providing a valid electronic mail address for the applicant. Within ten days after receipt of an application and a valid electronic mail address for the applicant, the director shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete.

(C) Filing fee. The fee for processing the application shall be \$500.00.

(D) Action by the director. The application must be approved or disapproved by the director within 60 days of receipt of the complete application. Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval including

(i) The specific reason for disapproval; and

(ii) Any modifications to the project described in the application that if made would permit the city to approve the application. The 60-day period may be extended by the director in writing for a period not to exceed an additional 30 days. The application shall be deemed approved if the director fails to act within the initial 60 days or the extended 30-day period, provided that the director and the applicant may agree to extend the applicable deadlines by mutual consent.

(E) Reasons for disapproval. The director may disapprove a proposed location or installation of a standard facility on an existing structure for any reason that is consistent with the standards of 47 U.S.C. § 332(c)(7), provided that the director shall not disapprove an application on the basis of:

- (1) The applicant's business decision with respect to its designed service, customer demand for service, or quality of its service to or from a particular site;
- (2) The applicant's specific need for the project, including the applicant's desire to provide additional wireless coverage or capacity; or
- (3) The wireless facility technology selected by the applicant for use at the project.
- (F) The director shall release any written record supporting the written explanation required by Section 1208(D) within thirty days following the written notice of disapproval.
- (G) Prohibited application requirements. The city shall not impose any requirement on an applicant that is prohibited by Section 15.2-2316.4:2 of the Code of Virginia.
- (H) Exception. This section does not apply to any eligible facilities request, as defined in Section 7-1211(A).

Editor's note— See Code of Virginia §§ 15.2-2316.3 and 15.2-2316.4:1(A) related to subsection (A); see Code of Virginia § 15.2-2316.4:1(C)(1) related to subsection (B); see Code of Virginia § 15.2-2316.4:1(B)(1) related to subsection (C); see Code of Virginia §§ 15.2-2316.4(B)(1), 15.2-2316.4:1(C)(2)(b), and 15.2-2316.4:1(E), related to subsection (D); see Code of Virginia §§ 15.2-2316.4:1(F)(2) and 15.2-2316.4:2 related to subsection (E); and see Code of Virginia § 15.2-2316.4:2 related to subsection (F).

Section 7. That Section 7-1209 of the Zoning Ordinance be, and the same hereby is, added and ordained, as shown:

7-1209 - Installation of new structures to support small cell facilities.

- (A) Administrative approval. Notwithstanding any other provisions of this zoning ordinance, no special exception, special use permit, or variance shall be required for any application by a wireless infrastructure provider or wireless services provider, for the installation of a new structure to support small cell facilities.
- (B) Application process. An applicant for a permit under this section shall file an application with the director on such forms and subject to such procedures as the director may establish for the purpose which shall include a statement identifying the applicant and providing a valid electronic mail address for the applicant. Within ten business days after receipt of an application and a valid electronic mail address for the applicant, the director shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete.
- (C) Filing fee. The fee for processing the application shall be \$100.00 each for the first five permit requests and \$50.00 for each additional permit request on an application.
- (D) Action by the director. The application must be approved or disapproved by the director within 60 days of receipt of the complete application. Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval including (i) the specific reason for disapproval pursuant to section 7-1209(E); and (ii) any modifications to the project described in the application that if made would permit the city to approve the application. The director shall release any written record supporting the written explanation required by this section within thirty days following the written notice of disapproval. The application shall be deemed approved if the director fails to act within the initial 60 days or the extended 30-day period.

- (E) Reasons for disapproval. The director may disapprove a proposed location or installation of a small cell facility on a new structure for any reason that is consistent with the standards of 47 U.S.C. § 332(c)(7), provided that the director shall not disapprove an application on the basis of:
- (1) The applicant's business decision with respect to its designed service, customer demand for service, or quality of its service to or from a particular site;
 - (2) The applicant's specific need for the project, including the applicant's desire to provide additional wireless coverage or capacity;
 - (3) The wireless facility technology selected by the applicant for use at the project; or
 - (4) Any conflict with an applicable height restriction.
- (F) Prohibited application requirements. The city shall not impose any requirement on an applicant that is prohibited by Section 15.2-2316.4:2 of the Code of Virginia.

Editor's note— See Code of Virginia §§ 15.2-2316.3 and 15.2-2316.4:1(A) related to subsection (A); see Code of Virginia § 15.2-2316.4:1(C)(1) related to subsection (B); see Code of Virginia §§ 15.2-2316.4(B)(2) and 15.2-2316.4:1(B)(1) related to subsection (C); see Code of Virginia §§ 15.2-2316.4(B)(1), 15.2-2316.4:1(C)(2)(b), 15.2-2316.4:1(E), and 15.2-2316.4:1(F)(2) related to subsection (D); see Code of Virginia §15.2-2316.4:2 related to subsection (E); and see Code of Virginia 15.2-2316.4:2 related to subsection (F).

Section 8. That Section 7-1210 of the Zoning Ordinance be, and the same hereby is, added and ordained, as shown:

7-1210 - Installation of a new structure to support standard facilities.

(A) Application process.

- (1) An applicant for a standard facility permit shall file an application with the director on such forms and subject to such procedures as the director may establish for the purpose, which shall include a statement identifying the applicant and providing a valid electronic mail address for the applicant.
- (2) The director shall determine whether the proposed new structure exceeds a maximum height of 50 feet. If the proposed new structure falls below the specified maximum height, the application shall be reviewed in accordance with the administrative process set forth in Section 7-1210(C). If the proposed new structure exceeds the specified maximum height, the applicant shall obtain a special use permit, pursuant to the procedures set forth in Section 7-1210(D). Notwithstanding any provision of the zoning ordinance, the fees and processing periods for such a special use permit shall not exceed those set forth in this section.
- (3) Within ten business days after receipt of an application and a valid electronic mail address for the applicant, the director shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. The director shall also notify the applicant if the director has determined that the applicant must obtain a special use permit.

- (B) Prohibited application requirements. The city shall not impose on an applicant for a standard facility to be installed on a new structure any requirement that is prohibited by Section 15.2-2316.4:2 of the Code of Virginia.
- (C) Administrative approval.
- (1) If a proposed new structure does not exceed the maximum permitted height as listed in Section 7-1210(A)(2), the application must be approved or disapproved by the director within 150 days of receipt of the complete application. Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval including (i) the specific reason for disapproval pursuant to section 7-1210(C)(2); and (ii) any modifications to the project described in the application that if made would permit the city to approve the application.
- (2) The director may disapprove a proposed location or installation of a standard facility on a new structure that falls below the maximum height permitted for the zone or height district in which the proposed new structure is to be located for any reason that is consistent with the standards of 47 U.S.C. § 332(c)(7), provided that the director shall not disapprove an application on the basis of:
- (i) The applicant's business decision with respect to its designed service, customer demand for service, or quality of its service to or from a particular site;
- (ii) The applicant's specific need for the project, including the applicant's desire to provide additional wireless coverage or capacity;
- (iii) The wireless facility technology selected by the applicant for use at the project.
- (D) Special use permit required.
- (1) If a proposed new structure exceeds the maximum permitted height as listed in Section 7-1210(A)(2), a special use permit is required. Any application for a special use permit under this subsection must be approved or disapproved by the city council within 150 days of receipt of the complete application. Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval including:
- (i) the specific reason for disapproval pursuant to section 7-1210(D)(2); and
- (ii) any modifications to the project described in the application that if made would permit the city to approve the application. The director shall release any written record supporting the written explanation required by this section within thirty days following the written notice of disapproval.
- (2) The council may disapprove a proposed location or installation of a new structure under this subsection if the proposed location or installation conflicts with the criteria set out in Section 11-504, provided that the reason for denial is consistent with the standards of 47 U.S.C. § 332(c)(7)(B) and that the council shall not disapprove an application on the basis of:
- (i) The applicant's business decision with respect to its designed service, customer demand for service, or quality of its service to or from a particular site;
- (ii) The applicant's specific need for the project, including the applicant's desire to provide additional wireless coverage or capacity; or

(iii) The wireless facility technology selected by the applicant for use at the project.

(E) Filing fee. The fee for processing an application under Section 7-1210(C) shall be \$5,250. The fee for processing an application under Section 7-1210(D) shall be (1) \$5,250.00 if for construction of a new standard facility on a support structure or (2) \$335.00 for approval as part of a development site plan application in accordance with Section 11-400.

Editor's note— See Code of Virginia 15.2-2316.4:1(C)(1) related to subsection (A)(3); see Code of Virginia § 15.2-2316.4:2 related to subsection (B); see Code of Virginia § 15.2-2316.4:1(C)(2)(a) related to subsection (C)(1); see Code of Virginia §§ 15.2-2316.4(B)(4) and 15.2-2316.4:2 related to subsection (C)(2); see Code of Virginia §§ 15.2-2316.4:1(C)(2)(a), 15.2-2316.4:1(E), and 15.2-2316.4:1(F)(2) and 47 CFR § 1.6003(c)(iv) related to subsection (D)(1); see Code of Virginia § 15.2-2316.4:2 related to subsection (D)(2); and see Code of Virginia §§ 15.2-2316.3 and 15.2-2316.4:1(B)(2) related to subsection (E).

Section 9. That Section 7-1211 of the Zoning Ordinance be, and the same hereby is, added and ordained, as shown:

7-1211 - Modification, replacement, or installation of additional wireless facilities on an existing structure.

(A) Definition. For purposes of this section 7-1211, the term “eligible facilities request” shall have the same meaning as in 47 C.F.R. § 1.6100, or any successor regulation.

(B) Application required. A wireless services provider or wireless infrastructure provider shall apply for a permit for any eligible facilities request.

(C) Application process.

(1) An applicant for an eligible facilities request permit shall file an application with the director on such forms and subject to such procedures as the director may establish for the purpose, which shall include a statement identifying the applicant and providing a valid electronic mail address for the applicant.

(2) The director shall determine whether the proposed modification, replacement or installation constitutes an eligible facilities request. Within thirty days after receipt of an application and a valid electronic mail address for the applicant, the director shall notify the applicant by electronic mail whether the application qualifies as an eligible facilities request.

(3) If the proposed modification, replacement or installation does constitute an eligible facilities request, the application shall be further reviewed in accordance with 47 C.F.R. § 1.6100 and the application may be approved in accordance with the timeframes and procedures of that regulation.

(4) If the proposed modification, replacement or installation is for a small cell facility and does not constitute an eligible facilities request the application shall be reviewed in accordance with this section.

(5) If the proposed modification, replacement or installation is for a standard facility and does not constitute an eligible facilities request the application shall be reviewed in accordance with the procedures and standards set forth in this section.

(D) Filing fee. The fee for processing an application under this section shall be (1) \$500 for standard facilities per application and (2) shall be \$100.00 each for the first five permit requests and \$50.00 for each additional permit request on an application for small cell facilities.

Editor's note— See 47 CFR §1.6100 related to subsections (A) through (C), and see Code of Virginia §§ 15.2-2316.4(B)(2) and 15.2-2316.4:1(B)(1) related to subsection (D).

Section 10. That Section 7-1212 of the Zoning Ordinance be, and the same hereby is, added and ordained, as shown:

7-1212 - Aesthetic standards governing wireless facility installations.

(A) Design guidelines. The director may develop and promulgate design guidelines applicable to each of the following types of facility installations:

- (1) Wireless facilities installed on existing structures in the public rights-of-way;
- (2) Wireless facilities installed on rooftops and building facades;
- (3) Wireless support structures designed to support standard facilities; and
- (4) Wireless support structures designed to support small cell facilities.

(B) Scope of guidelines. The design guidelines may include reasonable requirements regarding:

- (1) The kinds of materials of which a wireless support structure may be composed;
- (2) The color, shape, texture, and general appearance of wireless support structures, ancillary equipment cabinets, and antennas;
- (3) The arranging, screening, camouflaging, or landscaping of wireless facilities and wireless support structures; and
- (4) Such other characteristics or factors that the director deems appropriate, consistent with the goal of allowing the deployment of wireless facilities in a manner consistent with the aesthetic character of the city and the zoning district in which an applicant proposes to install its facilities.

(C) Characteristics of guidelines. The design guidelines shall be no more burdensome than those applied to other types of facilities deployed in similar locations in the city. The guidelines shall be detailed and clear and shall be written in such a way that:

- (1) Applicants may readily determine whether a design meets the guidelines; and
- (2) The discretion of the director in determining whether a design meets the guidelines is minimized.

(D) Historic districts. The director shall develop and submit to the board of architectural review for approval design guidelines for the city's historic districts that are consistent with this section and the existing design guidelines for the historic districts.

(E) Compliance with design guidelines. In developing application forms and related requirements, the director may require applicants to submit information demonstrating that proposed installations of wireless facilities and wireless structures comply with the design guidelines pertinent to the types of facilities proposed in each application. Applicants shall comply with all such applicable design guidelines in designing and constructing wireless facilities and wireless structures. The director may reject any

application that includes a proposed design that does not comply with any applicable guideline.

(F) Setbacks. Applications shall meet all setback requirements for the district in which the wireless facilities are to be located. The director may reject any application that includes a proposed design that does not comply with such setback requirements.

(G) Publication of guidelines. The final design guidelines shall be made available to the public, wireless providers, and wireless infrastructure providers before they take effect and shall be readily available on the city's website.

Editor's note— See Code of Virginia §§ 15.2-2316.4(B)(4)(c), 15.2-2316.4(B)(4)(d) and 15.2-2316.4:2(A)(6) related to subsection (A); see Code of Virginia § 15.2-2316.4:2(A)(6) related to subsection (B); see Code of Virginia § 15.2-2316.4(B)(4)(d) related to subsection (D); and see Code of Virginia § 15.2-2316.4:2(A)(9) related to subsection (F).

Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing text amendment.

Section 3. That Section 6-403 (GENERAL REGULATIONS AND EXCEPTIONS) of Article VI (SPECIAL AND OVERLAY ZONES) and Section 7-1201 (PERMITTED UTILITIES), Section 7-1202 (SPECIAL USE UTILITIES), Section 7-1205 (RADIO AND TELEVISION RECEPTION OR TRANSMISSION STRUCTURES), and Section 7-1206 (GENERAL PROVISIONS PERTAINING TO INSTALLATION OF WIRELESS FACILITIES) of Article VII (SUPPLEMENTAL ZONE REGULATIONS) and add Section 7-1207 (INSTALLATION OF SMALL CELL FACILITIES ON EXISTING STRUCTURES), Section 7-1208 (INSTALLATION OF STANDARD FACILITIES ON EXISTING STRUCTURES), Section 7-1209 (INSTALLATION OF NEW STRUCTURES TO SUPPORT SMALL CELL FACILITIES), Section 7-1210 (INSTALLATION OF A NEW STRUCTURE TO SUPPORT STANDARD FACILITIES), Section 7-1211 (MODIFICATION, REPLACEMENT, OR INSTALLATION OF ADDITIONAL WIRELESS FACILITIES ON AN EXISTING STRUCTURE), and Section 7-1212 (AESTHETIC STANDARDS GOVERNING WIRELESS FACILITY INSTALLATIONS) of Article VII (SUPPLEMENTAL ZONE REGULATIONS), as amended pursuant to Sections 1 through 10 of this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria Zoning Ordinance.

Section 4. That this ordinance shall become effective on the date and at the time of its final passage, and shall apply to all applications for land use, land development or subdivision approval provided for under the City of Alexandria Zoning Ordinance which may be filed after such date, and shall apply to all other facts and circumstances subject to the provisions of the City of Alexandria Zoning Ordinance, except as may be provided in Article XII of the Zoning Ordinance.

JUSTIN M. WILSON
Mayor

Final Passage: March 14, 2020