

1 **Ordinance to Amend and Re-Enact the Zoning Ordinance of the City of Hampton, Virginia**
2 **by Amending Chapter 3 Pertaining to Commercial Communication Antennas**

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4 **Whereas**, the public necessity, convenience, general welfare and good zoning practice so
5 require;

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7 **BE IT ORDAINED** by the Council of the City of Hampton, Virginia that chapter 3 of the Zoning
8 Ordinance of the City of Hampton, Virginia, be amended to read as follows:

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10 **CHAPTER 3 – USES PERMITTED**

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14 **Sec. 3-2. Table of uses permitted.**

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16 **(a) Table of Uses Permitted in Standard Zoning Districts.**

17 *[See attached use table for changes.]*

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19 **(b) Table of Uses Permitted in Special Zoning Districts.**

20 *[See attached use table for changes.]*

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23 **Section 3-3. – Additional standards on uses.**

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25 (33) Communication antenna, commercial building-mounted in *all* ~~the R-R, R-LL, R-13, R-33,~~
26 ~~R-22, R-15, R-13, R-11, R-9, R-8, R-4, MD-1, MD-2, MD-3, MD-4, R-M, C-1, C-2, C-3, M-~~
27 ~~1, M-2, M-3, RT-1, BB-3, BB-4, BB-5, HRC-2, HRC-3, PH-1, PH-2, PH-3, DT-1, DT-2,~~
28 ~~DT-3, PO-1, FM-3, and FM-4~~ districts. The following minimum conditions shall be met:

29 (a) The following criteria regulate the use of less obtrusive support structures that
30 are alternatives to traditional monopole and tower-based facilities, by
31 accommodating installations *on existing structures. Existing structures includes*
32 *any structure that is currently supporting, designed to support, or capable of*
33 *supporting the attachment of wireless facilities, including towers, buildings, utility*
34 *poles, light poles, flag poles, signs, and water towers.* ~~that are a subordinate use~~
35 ~~in conjunction with a permitted principal or accessory use of a property.~~ Such
36 installations may include but not be limited to rooftop installations and permitted
37 rooftop mechanical enclosures; installations on the face of a building; *co-location*
38 *on an existing pole*; installations on otherwise permitted water towers and within
39 otherwise permitted ornamental towers and steeples. ~~The specific review criteria~~
40 ~~set forth in this subsection are intended~~

- 41 (a) *Applications to co-locate small cell wireless facilities on third-party existing structures*
42 *shall comply with the following requirements:*
- 43 (i) *No wireless infrastructure provider shall co-locate a small cell facility in or on*
44 *any existing structure without first obtaining a Wireless Infrastructure Permit*
45 *(WIP) from the Department in accordance with this division.*
- 46 (aa) *Notwithstanding the foregoing, a WIP shall not be required for (i) routine*
47 *maintenance or (ii) the replacement of wireless facilities or wireless*
48 *support structures within a six-foot perimeter with wireless facilities or*
49 *wireless support structures that are substantially similar or the same size*
50 *or smaller.*
- 51 (ii) *Application for Permit. The Department shall establish a standard application*
52 *form for Wireless Infrastructure Permits under this section.*
- 53 (aa) *Applicants may submit not more than 35 individual permit requests with*
54 *each application.*
- 55 (bb) *Applicants shall deliver applications to the Department, together with*
56 *an application fee. No application shall be reviewed unless and until the*
57 *application fee has been paid.*
- 58 (cc) *The application fee shall be \$100.00 apiece for each of the first five*
59 *individual permit requests included with a single application, plus*
60 *\$50.00 apiece for each additional individual permit request above five*
61 *included with a single application.*
- 62 (i) *Materials to be submitted with WIP applications to co-locate small cell wireless*
63 *facilities on third-party existing structures:*
- 64 (aa) *When filing an application, an applicant shall submit the applicant's*
65 *name and a valid electronic mail address at which the applicant may be*
66 *contacted;*
- 67 (bb) *When filing an application, for each individual permit requested in the*
68 *application, the applicant shall provide, unless waived or modified by*
69 *the Department:*
- 70 (1) *The address and latitude/longitude of the existing structure on*
71 *which the small cell facility will be co-located and the nearest Land*
72 *Record Serial Number (LRSN) from the City's Geographic*
73 *Information System;*
- 74 (2) *The name of the owner of the existing structure and an agreement*
75 *or other evidence showing the owner has granted permission to the*
76 *applicant to co-locate on the existing structure, which evidence may*
77 *include the owner's signature on the application or other*
78 *documents;*
- 79 (3) *Copies of any approvals for the site granted by a federal agency,*
80 *including conditions imposed by that agency;*
- 81 (4) *Engineer-certified intermodulation study and other documentation*
82 *to the extent permitted by law demonstrating that the small cell*
83 *facility and operation thereof will not interfere with City pre-existing*
84 *communications facilities;*

- 85 (5) Plans clearly depicting the dimensions and specifications of the
86 small cell facility, including the antennae, base station, and all
87 assorted wireless equipment;
- 88 (6) Detailed elevation drawings showing the co-location of the small
89 cell facility, including the base station and all other associated
90 equipment on the existing structure; and
- 91 (7) To the extent permitted by law, such additional materials as are
92 listed on the application form established by the Department and
93 are reasonably required by the Department to determine the
94 approvability of a permit in accordance with this Section.
- 95 (ii) Any application not including the required application fee and all of the
96 information listed in this section may be deemed incomplete by the
97 Department.
- 98 (iii) The application review process to co-locate small cell wireless facilities on
99 third-party existing structures shall comply with the following requirements:
- 100 (aa) Provided the applicant has and paid the appropriate application fee,
101 within ten (10) days after receipt of an application and a valid electronic
102 mail address for the applicant, the locality shall notify the applicant by
103 electronic mail whether the application is incomplete and specify any
104 missing information; otherwise, the application shall be deemed
105 complete. Any disapproval of the application shall be in writing and
106 accompanied by an explanation for the disapproval.
- 107 (bb) During review of a complete application, the Department may request
108 the applicant to provide additional information which is reasonably
109 required to the extent permitted by law to determine the approvability
110 of a permit in accordance with this section.
- 111 (cc) Within sixty (60) days of submittal of a complete application, the
112 Department shall, for each individual permit request included in an
113 application: (i) approve the individual permit request; or (ii) deny the
114 individual permit request in writing, including a written explanation of
115 the reason[s] for denial. The Department may extend the sixty (60) day
116 period in writing for a period not to exceed an additional thirty (30)
117 days. The application shall be deemed approved if the Department
118 fails to act within the greater of the initial sixty (60) days or an extended
119 thirty (30) day period.
- 120 (iv) Standards of Review for Applications and Bases for Denial.
- 121 (aa) Upon confirmation that an application is complete, the Department
122 shall review the permit requests. No individual permit request
123 included in a complete application shall be denied except for one or
124 more of the following reasons:
- 125 1. Lack of conformance with this division, applicable federal and
126 state law, including, but not limited to the Uniform Statewide
127 Building Code;

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2. To the extent permitted by law, the City of Hampton Wireless Infrastructure and Small Cell Facility Design Standards;
3. 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;
4. The public safety or other critical public service needs; or
5. Conflict with an applicable local ordinance adopted pursuant to § 15.2-2306, or pursuant to local charter on a historic property that is not eligible for the review process established under 54 U.S.C. § 306108.

(b) Applications to co-locate non-small cell wireless facilities on third-party existing structures shall comply with the following requirements:

(i) No Wireless infrastructure provider shall co-locate a small cell facility in or on any existing structure without first obtaining a Wireless Infrastructure Permit (WIP) from the Department in accordance with this division.

(aa) Notwithstanding the foregoing, a WIP shall not be required for (i) routine maintenance or (ii) the replacement of wireless facilities or wireless support structures within a six-foot perimeter with wireless facilities or wireless support structures that are substantially similar or the same size or smaller.

(ii) Application for Permit. The Department shall establish a standard application form for Wireless Infrastructure Permits under this section.

(aa) Applicants may submit not more than one (1) individual permit request with each application.

1. Applicants shall deliver applications to the Department, together with an application fee. No application shall be reviewed unless and until the application fee has been paid.

2. The application fee shall be \$500.00.

(iii) Materials to be submitted with WIP applications to co-locate non-small cell wireless facilities on third-party existing structures:

(aa) When filing an application, an applicant shall submit the applicant's name and a valid electronic mail address at which the applicant may be contacted;

(bb) When filing an application, for each individual permit requested in the application, the applicant shall provide, unless waived or modified by the Department:

1. The address and latitude/longitude of the existing structure on which the small cell facility will be co-located and the nearest Land Record Serial Number (LRSN) from the City's Geographic Information System;

2. The name of the owner of the 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 or other documents;

- 172 3. Copies of any approvals for the site granted by a federal agency,
173 including conditions imposed by that agency;
- 174 4. Engineer-certified intermodulation study and other documentation to the
175 extent permitted by law demonstrating that the non-small cell facility and
176 operation thereof will not materially interfere with City pre-existing
177 communications facilities;
- 178 5. Plans clearly depicting the dimensions and specifications of the non-
179 small cell facility, including the antennae, base station, and all assorted
180 wireless equipment;
- 181 6. Detailed elevation drawings showing the co-location of the non-small
182 cell facility, including the base station and all other associated equipment
183 on the existing structure; and
- 184 7. To the extent permitted by law, such additional materials as are listed
185 on the application form established by the Department and are
186 reasonably required by the Department to determine the approvability of
187 a permit in accordance with this Section.
- 188 (iv) Any application not including the required application fee and all of the information
189 listed in this section may be deemed incomplete by the Department.
- 190 (v) The application review process to co-locate non-small cell wireless facilities on
191 third-party existing structures shall comply with the following requirements:
- 192 (aa) Provided the applicant has and paid the appropriate application fee, within
193 ten (10) days after receipt of an application and a valid electronic mail
194 address for the applicant, the locality shall notify the applicant by electronic
195 mail whether the application is incomplete and specify any missing
196 information; otherwise, the application shall be deemed complete. Any
197 disapproval of the application shall be in writing and accompanied by an
198 explanation for the disapproval.
- 199 (bb) During review of a complete application, the Department may request the
200 applicant to provide additional information which is reasonably required to
201 the extent permitted by law to determine the approvability of a permit in
202 accordance with this Section.
- 203 (cc) Within ninety (90) days of submittal of a complete application, the
204 Department shall (i) approve the individual permit request; or (ii) deny the
205 individual permit request in writing, including a written explanation of the
206 reason[s] for denial. The 90-day period may be extended by mutual
207 agreement in writing between the applicant and the Department. The
208 application shall be deemed approved if the Department fails to act within
209 the greater of the initial 90 days or within any mutually agreed extension
210 thereof.
- 211 (vi) Standards of Review for Applications and Bases for Denial.
- 212 (aa) Upon confirmation that an application is complete, the Department shall
213 review the permit requests. No individual permit request included in a
214 complete application shall be denied except for one or more of the following
215 reasons:

- 216 1. *Lack of conformance with this division, applicable federal and state*
217 *law, including, but not limited to the Uniform Statewide Building*
218 *Code; or, to the extent permitted by law, the City of Hampton*
219 *Wireless Infrastructure and Small Cell Facility Design Standards;*
220 2. *The proposed wireless facilities have a negative aesthetic impact on*
221 *the surrounding area, considering the size and design of the facilities*
222 *and the historic, residential, or commercial character of the surrounding*
223 *area;*
224 3. *The proposed wireless facilities pose a risk to the public safety,*
225 *including but not limited to public travel within the public way;*
226 4. *The proposed wireless facilities are inconsistent with the city's existing*
227 *or planned public safety communications system; or*
228 5. *Alternative, less impactful locations which reasonably meet the needs*
229 *of the applicant are available for placement of the wireless facilities as*
230 *allowed by law.*

231 (34) Communication tower, commercial in ~~all the R-R, R-LL, R-43, R-33, R-22, R-15, R-13, R-11,~~
232 ~~R-9, R-8, R-4, MD-1, MD-2, MD-3, R-M, C-1, C-2, C-3, M-1, M-2, M-3, RT-1, HRC-1, HRC-2, HRC-~~
233 ~~3, PH-1, PH-2, PH-3, DT-1, DT-2, DT-3, FM-3, and PO-1 districts.~~

234 (a) *Applications to install new structures that meet the definition of administrative review-*
235 *eligible project shall be permitted by right and shall comply with the following additional*
236 *standards:*

237 (i) *Application for Permit. The Department shall establish a standard application*
238 *form for Wireless Infrastructure Permits under this section.*

239 (aa) *Applicants shall submit one (1) application per proposed new structure*
240 *location.*

241 (bb) *Applicants shall deliver applications to the Department, together with an*
242 *application fee. No application shall be reviewed unless and until the*
243 *application fee has been paid.*

244 (cc) *The application fee shall be \$500.00.*

245 (ii) *Materials to be submitted with WIP applications to install new structures that*
246 *meet the definition of administrative review-eligible project:*

247 (aa) *When filing an application, an applicant shall submit the applicant's name*
248 *and a valid electronic mail address at which the applicant may be contacted;*

249 (bb) *When filing an application, for each individual permit requested in the*
250 *application, the applicant shall provide, unless waived or modified by the*
251 *Department:*

252 1. *The address and latitude/longitude of the proposed new structure,*
253 *and the nearest Land Record Serial Number (LRSN) from the City's*
254 *Geographic Information System;*

255 2. *Plans clearly depicting the dimensions and specifications of the new*
256 *structure and all wireless facilities to be attached to the new*
257 *structure, including the antennae, base station, and all assorted*
258 *wireless equipment. The plans shall depict all materials existing*

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conditions in the vicinity of the new structure, including but not limited to limits of the public right-of-way; all existing public and privately-owned utility and infrastructure improvements, such as water mains, water meters, sanitary sewer, storm sewer, electrical, gas, telecommunications, manholes, stormwater basins, sidewalks, curbs, gutters, street trees, and traffic signal facilities. For convenience of site planning, it is highly recommended that the plans also depict the proposed routing of utilities to the new structure;

- 3. Engineer-certified intermodulation study; and other documentation to the extent permitted by law demonstrating that the wireless facilities to be attached to the new structure, and operation thereof, will not interfere with City pre-existing communications facilities;*
- 4. Detailed elevation drawings, including the materials to be used, showing the new structure and wireless facilities to be attached to the new structure, including the base station and all other associated equipment;*
- 5. A copy of the written notice given to adjacent landowners at least 15 days before the application is submitted, in accordance with any notice requirements the City may prescribe.*
- 6. Upon request from the Department, a copy of the franchise, encroachment, or other similar license agreement, if applicable, from the City Council allowing the installation of new structures in the City right-of-way; and*
- 7. To the extent permitted by law, such additional materials as are listed on the application form established by the Department and are reasonably required by the city engineer to determine the approvability of a permit in accordance with this Section.*

(iii) Any application not including the required application fee and all of the information listed in this section may be deemed incomplete by the Department.

(iv) Standards of Review for Application and Bases for Denial.

(aa) Upon confirmation that an application is complete, the Department shall review the permit requests. No individual permit request included in a complete application shall be denied except for one or more of the following reasons:

- 1. Lack of conformance with this division; applicable franchise, encroachment, or other license agreement; applicable federal and state law, including, but not limited to the Uniform Statewide Building Code; or, to the extent permitted by law, the City of Hampton Wireless Infrastructure and Small Cell Facility Design Standards;*
- 2. The proposed new structure does not meet the definition of an administrative-eligible review project.*

- 301 3. *The proposed wireless support structure or wireless facilities does*
302 *not comply with applicable law and the terms of the wireless*
303 *facilities franchise agreement, if applicable;*
- 304 4. *The proposed wireless support structure is not reasonably*
305 *consistent with existing structures and aesthetics, is not in*
306 *harmony with the surrounding improvements, or does not conceal*
307 *within the pole all wires and supporting equipment to the greatest*
308 *extent possible;*
- 309 5. *The proposed wireless support structure or wireless facilities*
310 *poses a risk to the public safety, including, but not limited to,*
311 *public travel within the public way;*
- 312 6. *The proposed wireless support structure or wireless facilities is*
313 *inconsistent with the City's existing or planned public safety*
314 *communications system;*
- 315 7. *Alternative, less impactful locations which reasonably meet the*
316 *needs of the applicant are available for placement of the wireless*
317 *facilities intended to be attached to the wireless support structure*
318 *as allowed by law.*

319 (b) *Commercial communication towers not meeting the definition of administrative review-*
320 *eligible project are subject to obtaining a use permit by city council. The city will evaluate*
321 *each application on a site-by-site basis with regard to the surrounding land use patterns.*
322 *Conditions shall include, but are not limited to, the following:*

323 (i) *Submission of:*

324 (aa) *Plans clearly depicting the dimensions and specifications of the new*
325 *structure and all wireless facilities to be attached to the new structure,*
326 *including the antennae, base station, and all assorted wireless*
327 *equipment. The plans shall depict all materials existing conditions in*
328 *the vicinity of the new structure, including but not limited to limits of*
329 *the public right-of-way; all existing public and privately-owned utility*
330 *and infrastructure improvements, such as water mains, water meters,*
331 *sanitary sewer, storm sewer, electrical, gas, telecommunications,*
332 *manholes, stormwater basins, sidewalks, curbs, gutters, street trees,*
333 *and traffic signal facilities. In addition, the plans shall depict the*
334 *proposed routing of utilities to the new structure;*

335 (bb) *Engineer-certified intermodulation study; and other documentation to*
336 *the extent permitted by law demonstrating that the wireless facilities*
337 *to be attached to the new structure, and operation thereof, will not*
338 *interfere with City pre-existing communications facilities;*

339 (cc) *Detailed elevation drawings, including the materials to be used,*
340 *showing the new structure and wireless facilities to be attached to the*
341 *new structure, including the base station and all other associated*
342 *equipment;*

343 (dd) *Upon request from the Department, a copy of the franchise,*
344 *encroachment, or other similar license agreement, if applicable, from*

345 *the City Council to allowing the installation of new structures in the*
346 *City right-of-way, in accordance with subsection (a) of this section;*
347 *and*
348 *(i) Conformance with this division; applicable franchise, encroachment, or other*
349 *license agreement; applicable federal and state law, including, but not limited to*
350 *the Uniform Statewide Building Code; or, to the extent permitted by law, the City*
351 *of Hampton Wireless Infrastructure and Small Cell Facility Design Standards;*
352 *(ii) The proposed wireless support structure must be reasonably consistent with*
353 *existing structures and aesthetics, in harmony with the surrounding*
354 *improvements, and conceals within the pole all wires and supporting equipment*
355 *to the greatest extent possible;*
356 *(iii) The proposed wireless support structure or wireless facilities shall not pose a*
357 *risk to the public safety, including, but not limited to, public travel within the*
358 *public way;*
359 *(iv) The proposed wireless support structure or wireless facilities shall be consistent*
360 *with the City's existing or planned public safety communications system;*
361 *(v) No alternative, less impactful locations which reasonably meet the needs of the*
362 *applicant are available for placement of the wireless facilities intended to be*
363 *attached to the wireless support structure as allowed by law.*
364 ...