

1 **Ordinance To Amend And Re-Enact Chapter 34 Of The City Code Of The City Of Hampton,**
2 **Virginia Entitled “Streets and Sidewalks,” By Amending Article III Pertaining To Wireless**
3 **Infrastructure**

4
5 **BE IT ORDAINED** by the Council of the City of Hampton, Virginia that Article III of Chapter 34 of
6 the City Code of the City of Hampton, Virginia, be amended and re-enacted as follows:
7

8 **CHAPTER 34 – STREETS AND SIDEWALKS**

9

10
11 **ARTICLE III – ENCROACHMENTS INTO PUBLIC STREETS AND OTHER PUBLIC WAYS,**
12 **PLACES, OR PROPERTY**

13
14 **DIVISION 1. – ENCROACHMENTS GENERALLY**

15
16 **Sec. 34-86. - Application; processing fee; procedures; council review.**

17
18 (a) Applications for encroachments into public streets and other public ways, places or
19 property shall be made to the director of the department of public works, *except as otherwise*
20 *provided in Division 2 of this article*. A nonrefundable fee of one hundred fifty dollars (\$150.00)
21 shall be paid to the city for processing an application for an encroachment into any public street
22 or other public way, place or property. The director of public works or his designee shall not accept
23 any application unless such fee is paid at the time the application is filed. The director of the
24 department of public works or his designee is hereby authorized and directed to prepare and
25 adopt a procedure for the processing of such applications and the reporting to city council of any
26 detrimental effect which a requested encroachment may have on the public health, safety, welfare
27 or interest. Any application for an encroachment presented for city council consideration shall be
28 accompanied by (i) an encroachment agreement executed by the applicant and incorporating all
29 terms and conditions imposed by city staff, (ii) a certificate of liability insurance in such amounts
30 and such coverages as required by the city's risk management administrator and naming the City
31 of Hampton as an additional insured in the endorsement box, and (iii) if required by the director
32 of public works or his designee, a performance bond in the amount set by the department of public
33 works to cover the costs of removal of the encroachment in the event of a violation of the
34 encroachment agreement or failure to remove the encroachment upon notification.
35

36 **DIVISION 2. – WIRELESS COMMUNICATIONS INFRASTRUCTURE**

37
38 ***Sec. 34-90. – Definitions***

39
40 *In accordance with Code of Virginia §§ 56-484.26 et seq. and 15.2-2316, et. seq, as*
41 *amended, the following definitions apply to this Division, except where context clearly*
42 *indicates a different meaning:*

43 *Administrative review-eligible project. A project that provides for:*

44 1. The installation or construction of a new structure that is not more than 50 feet above
45 ground level, provided that the structure with attached wireless facilities is (i) not more than
46 10 feet above the tallest existing utility pole located within 500 feet of the new structure within
47 the same public right-of-way or within the existing line of utility poles; (ii) not located within
48 the boundaries of a local, state, or federal historic district; (iii) not located inside the
49 jurisdictional boundaries of a locality having expended a total amount equal to or greater than
50 35 percent of its general fund operating revenue, as shown in the most recent
51 comprehensive annual financial report, on undergrounding projects since 1980; and (iv)
52 designed to support small cell facilities; or

53 2. The co-location on any existing structure of a wireless facility that is not a small cell
54 facility.

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

57 *Applicant.* A wireless services provider, wireless infrastructure provider, or other third
58 parties at the direction of the provider submitting the WIP application and all required
59 materials and information.

60 *Base station.* A station that includes a structure that currently supports or houses an
61 antenna, transceiver, coaxial cables, power cables, or other associated equipment at a
62 specific site that is authorized to communicate with mobile stations, generally consisting of
63 radio transceivers, antennas, coaxial cables, power supplies, and other associated
64 electronics.

65 *City facilities.* City-owned existing structures located within the public way. City facilities
66 may include, by means of example, city-owned light poles and city-owned traffic signal poles
67 and structures.

68 *Co-locate.* To install, mount, maintain, modify, operate, or replace a wireless facility on,
69 under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless
70 support structure. "Co-location" has a corresponding meaning.

71 *Department.* The Department of Public Works or any other department designated by
72 the City Manager.

73 *Existing structure.* Any structure that is installed or approved for installation at the time
74 a wireless services provider or wireless infrastructure provider provides notice to the city of
75 an agreement with the owner of the structure to co-locate equipment on that structure.
76 "Existing structure" includes any structure that is currently supporting, designed to support,
77 or capable of supporting the attachment of wireless facilities, including towers, buildings,
78 utility poles, light poles, flag poles, signs, and water towers.

79 *Micro-wireless facility.* A small cell facility that is not larger in dimension than twenty-four
80 (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height and that
81 has an exterior antenna, if any, not longer than eleven (11) inches.

82 *New structure.* A wireless support structure that has not been installed or constructed,
83 or approved for installation or construction, at the time a wireless services provider or

84 *wireless infrastructure provider applies to a locality for any required zoning approval.*

85 *Person. A person, including an individual, partnership, corporation, association,*
86 *governmental agency, trust, or other institution or entity.*

87 *Project. Either (i) the installation or construction by a wireless services provider or*
88 *wireless infrastructure provider of a new structure or (ii) the co-location on any existing*
89 *structure of a wireless facility that is not a small cell facility. "Project" does not include the*
90 *installation of a small cell facility by a wireless services provider or wireless infrastructure*
91 *provider on an existing structure to which the provisions of § 15.2-2316.4 apply.*

92 *Public rights-of-way - all rights-of-way owned or controlled by the City of Hampton,*
93 *including Public Street, Public Way, public easements, and other public places.*

94
95 *Public street. The surface of and the space above and below any public street, road,*
96 *highway, avenue, sidewalk, way, bridge, viaduct, alley, lane or other public right-of-way,*
97 *including non-paved surfaces, now or hereafter held by the city for the purpose of public*
98 *travel, communications, alarm, street lighting, power distribution, water or sewer easements*
99 *or similar public use.*

100 *Public way. All public streets held or controlled by the city, but only to the extent of the*
101 *city's right, title, interest or authority to grant a license to occupy and use such public streets*
102 *for telecommunications facilities.*

103 *Small cell facility. A wireless facility that meets both of the following qualifications: (i)*
104 *each antenna is located inside an enclosure of no more than six (6) cubic feet in volume, or,*
105 *in the case of an antenna that has exposed elements, the antenna and all of its exposed*
106 *elements could fit within an imaginary enclosure of no more than six (6) cubic feet and (ii) all*
107 *other wireless equipment associated with the facility has a cumulative volume of no more*
108 *than twenty-eight (28) cubic feet, or such higher limit as is established by the Federal*
109 *Communications Commission. The following types of associated equipment are not included*
110 *in the calculation of equipment volume: electric meter, concealment, telecommunications*
111 *demarkation boxes, ground-based enclosures, back-up power systems, grounding*
112 *equipment, power transfer switches, cut-off switches, and vertical cable runs for the*
113 *connection of power and other services.*

114 *Standard process project. Any project other than an administrative review-eligible*
115 *project.*

116 *Third Party Existing Structure. An Existing Structure not owned by the City of Hampton.*

117 *Utility pole. A structure owned, operated, or owned and operated by a public utility, local*
118 *government, or the Commonwealth that is designed specifically for and used to carry lines,*
119 *cables, or wires for communications, cable television, or electricity.*

120 *Water tower. A water storage tank, or a standpipe or an elevated tank situated on a*
121 *support structure, originally constructed for use as a reservoir or facility to store or deliver*
122 *water.*

123 *WIP. Wireless Infrastructure Permit.*

124 *Wireless facility. Equipment at a fixed location that enables wireless services between*
125 *user equipment and a communications network, including (i) equipment associated with*
126 *wireless services, such as private, broadcast, and public safety services, as well as*
127 *unlicensed wireless services and fixed wireless services, such as microwave backhaul, and*
128 *(ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power*
129 *supplies, and comparable equipment, regardless of technological configuration.*

130 *Wireless Infrastructure Permit (WIP). Permit required by this Division to install wireless*
131 *infrastructure and wireless facilities within the City.*

132 *Wireless infrastructure provider. Any person, including a person authorized to provide*
133 *telecommunications service in the state, that builds or installs transmission equipment,*
134 *wireless facilities, or wireless support structures, but that is not a wireless services provider.*

135 *Wireless services. (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)*
136 *(i); (ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including*
137 *commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile*
138 *communication devices through wireless facilities; and (iii) any other fixed or mobile wireless*
139 *service, using licensed or unlicensed spectrum, provided using wireless facilities.*

140 *Wireless services provider. A provider of wireless services.*

141 *Wireless support structure. A freestanding structure, such as a monopole, tower, either*
142 *guyed or self-supporting, or suitable existing structure or alternative structure designed to*
143 *support or capable of supporting wireless facilities. "Wireless support structure" does not*
144 *include any telephone or electrical utility pole or any tower used for the distribution or*
145 *transmission of electrical service.*

146
147 **State Code Reference:** §§ 56-484.26 et seq., and 15.2-2316.3, et seq.

148
149 **Sec. 34-91. – Enforcement of Division**
150

- 151 (a) *The Department shall have the authority to enforce all provisions of this division.*
- 152 (b) *Any person violating any provision of this division shall be guilty of a Class 1*
153 *misdemeanor. Each day a violation continues shall constitute a separate offense. In*
154 *addition to any penalties imposed for each violation, a court of competent jurisdiction*
155 *shall order the person responsible for the violation to correct the violation, and each day's*
156 *default in such correction shall constitute a violation of and a separate offense under this*
157 *division.*
- 158 (c) *In addition to any criminal penalties imposed, a court may enjoin the continuing violation*
159 *of this division by proceedings for an injunction brought in any court of competent*
160 *jurisdiction.*
- 161 (d) *Any permit issued under this division shall be revocable by the Department for non-*
162 *compliance with any term of the permit or any applicable wireless facilities franchise*
163 *agreement, or for non-compliance with any applicable requirement of this division.*

164
165 State Law Reference – Code of Virginia §§ 15.2-1429, 15.2-1432, 56-484.26 et seq., and
166 15.2-2316.3, et seq.

167
168 **Sec. 34-92. – Applicability**

169
170 *This division applies to the following types of wireless facility and wireless infrastructure*
171 *development within public rights-of-way, each of which contains different permitting requirements,*
172 *as further set forth in this division.*

173
174 **(a) Small Cell Wireless Facility Co-Locations within Public Rights of Way**

175
176 (1) *Applications to co-locate small cell wireless facilities within public rights-of-way on*
177 *third-party existing structures shall comply with the requirements in Section 34-93.*

178
179 (2) *Applications to co-locate small cell wireless facilities within public rights-of-way on*
180 *city-owned existing structures shall comply with the requirements in Section 34-*
181 *95.*

182
183 **(b) Non-Small Cell Wireless Facility Co-Locations within Public Rights of Way**

184
185 (1) *Applications to co-locate non-small cell wireless facilities within public rights-of-*
186 *way on third-party existing structures shall comply with the requirements Section*
187 *34-96.*

188
189 (2) *Applications to co-locate Non-Small Cell Wireless Facilities within Public Rights-*
190 *of-Way on City-Owned Existing Structures shall comply with the requirements in*
191 *Section 34-97.*

192
193 **(c) New Structure Installations within Public Rights of Way**

194
195 (1) *Applications to install new structures within public rights-of-way, which meet the*
196 *criteria for an administrative review-eligible project, shall comply with the*
197 *requirements in Section 34-98.*

198
199 (2) *Applications to install new structures within the public rights-of-way which meet the*
200 *criteria for a standard process project, shall comply with the requirements in*
201 *Section 34-99.*

202
203 **(d)** *The provisions of this division apply only to applications for permits within the public right-*
204 *of-way. Permits for development outside the public right-of-way shall be administered by*
205 *the zoning administrator in accordance with the requirements of state law and the zoning*
206 *ordinance. To the extent required by state law, the zoning administrator hereby designates*

207 the Department as the administrator of Wireless Infrastructure Permits within the public
208 right-of-way.

209 **State Code Reference:** §§ 56-484.26 et seq., and 15.2-2316.3, et seq.

210
211
212 **Sec. 34-93. – Small Cell Wireless Facility Co-Locations within Public Rights-of-Way on**
213 **Third Party Existing Structures**

214
215 *Applications to co-locate small cell wireless facilities within public rights-of-way on third-party*
216 *existing structures shall comply with the following requirements:*

217
218 (a) *No wireless infrastructure provider shall co-locate a small cell facility in or on any existing*
219 *structure located within any public rights of way without first obtaining a Wireless*
220 *Infrastructure Permit (WIP) from the Department in accordance with this division.*

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

225
226 (b) *Application for Permit. The Department shall establish a standard application form for*
227 *Wireless Infrastructure Permits under this section.*

228 (1) *Applicants may submit not more than 35 individual permit requests with each*
229 *application.*

230 (2) *Applicants shall deliver applications to the Department, together with an*
231 *application fee. No application shall be reviewed unless and until the application*
232 *fee has been paid.*

233 (3) *The application fee shall be \$100.00 apiece for each of the first five individual*
234 *permit requests included with a single application, plus \$50.00 apiece for each*
235 *additional individual permit request above five included with a single application.*

236
237 (c) *Materials to be submitted with WIP applications to co-locate small cell wireless facilities*
238 *within public rights-of-way on third-party existing structures:*

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

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

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

246 (ii) *The name of the owner of the existing structure and an agreement or other*
247 *evidence showing the owner has granted permission to the applicant to co-*
248 *locate on the existing structure, which evidence may include the owner's*
249 *signature on the application or other documents;*

- 250 (iii) Copies of any approvals for the site granted by a federal agency, including
251 conditions imposed by that agency;
- 252 (iv) Engineer-certified intermodulation study and other documentation to the
253 extent permitted by law demonstrating that the small cell facility and
254 operation thereof will not interfere with City pre-existing communications
255 facilities;
- 256 (v) Plans clearly depicting the dimensions and specifications of the small cell
257 facility, including the antennae, base station, and all assorted wireless
258 equipment;
- 259 (vi) Detailed elevation drawings showing the co-location of the small cell
260 facility, including the base station and all other associated equipment on
261 the existing structure; and
- 262 (vii) To the extent permitted by law, such additional materials as are listed on
263 the application form established by the Department and are reasonably
264 required by the Department to determine the approvability of a permit in
265 accordance with this Section 34-93.
- 266
- 267 (d) Any application not including the required application fee and all of the information listed
268 in this section may be deemed incomplete by the Department.
- 269
- 270 (e) The application review process to co-locate small cell wireless facilities within public rights-
271 of-way on third-party existing structures shall comply with the following requirements:
- 272 (1) Provided the applicant has and paid the appropriate application fee, within ten (10)
273 days after receipt of an application and a valid electronic mail address for the
274 applicant, the locality shall notify the applicant by electronic mail whether the
275 application is incomplete and specify any missing information; otherwise, the
276 application shall be deemed complete. Any disapproval of the application shall be
277 in writing and accompanied by an explanation for the disapproval.
- 278 (2) During review of a complete application, the Department may request the applicant
279 to provide additional information which is reasonably required to the extent
280 permitted by law to determine the approvability of a permit in accordance with this
281 section.
- 282 (3) Within sixty (60) days of submittal of a complete application, the Department shall,
283 for each individual permit request included in an application: (i) approve the
284 individual permit request; or (ii) deny the individual permit request in writing,
285 including a written explanation of the reason[s] for denial. The Department may
286 extend the sixty (60) day period in writing for a period not to exceed an additional
287 thirty (30) days. The application shall be deemed approved if the Department fails
288 to act within the greater of the initial sixty (60) days or an extended thirty (30) day
289 period.
- 290
- 291 (f) Standards of Review for Applications and Bases for Denial.

- 292 (1) Upon confirmation that an application is complete, the Department shall review the
293 permit requests. No individual permit request included in a complete application
294 shall be denied except for one or more of the following reasons:
- 295 (i) Lack of conformance with this division, applicable federal and state law, or
296 the City of Hampton Wireless Infrastructure and Small Cell Facility Design
297 Standards;
 - 298 (ii) Material potential interference with other pre-existing communications
299 facilities or with future communications facilities that have already been
300 designed and planned for a specific location or that have been reserved for
301 future public safety communications facilities;
 - 302 (iii) The public safety or other critical public service needs;
 - 303 (iv) Only in the case of an installation on or in publicly owned or publicly
304 controlled property, excluding privately owned structures where the
305 applicant has an agreement for attachment to the structure, aesthetic
306 impact or the absence of all required approvals from all departments,
307 authorities, and agencies with jurisdiction over such property; or
 - 308 (v) Conflict with an applicable local ordinance adopted pursuant to § 15.2-
309 2306, or pursuant to local charter on a historic property that is not eligible
310 for the review process established under 54 U.S.C. § 306108.

311 **State Code Reference:** §§ 56-484.26 et seq., and 15.2-2316.3, et seq.

312

313 **Sec. 34-94. – Micro-Wireless Facilities**

314

- 315 (a) The installation, placement, maintenance, or replacement of micro-wireless facilities that
316 are suspended on cables or lines that are strung between existing utility poles in
317 compliance with national safety codes within the public way is exempt from the application
318 and permitting requirements of this division.
- 319 (b) Any person who installs micro-wireless facilities as provided in subsection (a) and any
320 subsequent owner, lessee or operator thereof shall ensure that the facilities are
321 maintained in compliance with all national safety codes and so as not to constitute a
322 nuisance or threat to the public safety.
- 323 (c) Notwithstanding the foregoing, the City may require a right-of-way permit if installation of
324 micro-wireless facilities (i) involves working within the highway travel lane or requires
325 closure of a highway travel lane; (ii) disturbs the pavement, shoulder, roadway, or ditch
326 line; (iii) includes placement on limited access rights-of-way; or (iv) requires any specific
327 precautions to ensure the safety of the traveling public or the protection of public
328 infrastructure or the operation thereof, and either were not authorized in or will be
329 conducted in a time, place, or manner that is inconsistent with terms of the existing permit
330 for that facility or the structure upon which it is attached.

331 **State Code Reference:** §§ 56-484.26 et seq., and 15.2-2316.3, et seq.

332

333

334 **Sec. 34-95. – Small Cell Wireless Facilities within Public Rights-of-Way on City-Owned**
335 **Existing Structures**

336
337 *Applications to co-locate small cell wireless facilities within public rights-of-way on city-owned*
338 *existing structures shall comply with the following requirements:*

339
340 (a) *No Wireless infrastructure provider shall co-locate a small cell facility in or on any City-*
341 *owned existing structure located within any public rights of way without first obtaining a*
342 *Wireless Infrastructure Permit (WIP) from the Department and a franchise, encroachment*
343 *or other license agreement in accordance with this division.*

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

348
349 (b) *Application for Permit. The Department shall establish a standard application form for*
350 *Wireless Infrastructure Permits under this section.*

351 (1) *Applicants may submit not more than 35 individual permit requests with each*
352 *application.*

353 (2) *Applicants shall deliver applications to the Department, together with an*
354 *application fee. No application shall be reviewed unless and until the application*
355 *fee has been paid.*

356 (3) *The application fee shall be \$100.00 apiece for each of the first five individual*
357 *permit requests included with a single application, plus \$50.00 apiece for each*
358 *additional individual permit request above five included with a single application.*

359
360 (c) *Materials to be submitted with WIP applications to co-locate small cell wireless facilities*
361 *within public rights-of-way on city-owned existing structures:*

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

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

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

369 (ii) *Copies of any approvals for the site granted by a federal agency, including*
370 *conditions imposed by that agency;*

371 (iii) *Engineer-certified intermodulation study and other documentation to the*
372 *extent permitted by law demonstrating that the small cell facility and*
373 *operation thereof will not interfere with City pre-existing communications*
374 *facilities;*

375 (iv) *Plans clearly depicting the dimensions and specifications of the small cell*
376 *facility, including the antennae, base station, and all assorted wireless*
377 *equipment;*

- 378 (v) Detailed elevation drawings showing the co-location of the small cell
379 facility, including the base station and all other associated equipment on
380 the existing structure;
- 381 (vi) Upon request from the Department, a copy of the franchise, encroachment,
382 or other similar license agreement, from the City Council allowing the co-
383 location of small cell facilities upon City-owned existing structures, in
384 accordance with subsection (e) of this section; and
- 385 (vii) To the extent permitted by law, such additional materials as are listed on
386 the application form established by the Department and are reasonably
387 required by the city engineer to determine the approvability of a permit in
388 accordance with this Section 34-95.
- 389
- 390 (d) Any application not including the required application fee and all of the information listed
391 in this section may be deemed incomplete by the Department.
- 392
- 393 (e) Requirements for a franchise, license, or encroachment agreement:
- 394 (1) A franchise, license, or encroachment agreement to permit a wireless services
395 provider or a wireless infrastructure provider to attach small cell facilities to City-
396 owned structures shall be negotiated in good faith to arrive at mutually agreeable
397 contract terms and conditions, which may include but shall not be limited to,
398 compliance with the City of Hampton Wireless Infrastructure and Small Cell Facility
399 Design Standards; responsibility for all costs pertaining to the installation,
400 placement, maintenance, replacement or removal of the wireless facility on or from
401 the city-owned existing structure; responsibility for repairing all damage to the city-
402 owned existing structure resulting from the installation, placement, maintenance,
403 replacement or removal of the wireless facility on or from the existing structure, or
404 for paying the cost incurred by the city to repair the city facility; notification
405 requirements prior to commencement of work; bond requirements; and the right of
406 the city to remove any city facility at any time for the protection of the public health,
407 safety or welfare, with or without notice to the owner of the co-located wireless
408 facilities.
- 409 (2) The rates, terms, and conditions for such agreement shall be just and reasonable,
410 cost-based, nondiscriminatory, and competitively neutral, and shall comply with all
411 applicable state and federal laws. However, rates for attachments to City-owned
412 buildings may be based on fair market value. The annual recurring rate to co-locate
413 a small cell facility on a City-owned utility pole shall not exceed the actual, direct,
414 and reasonable costs related to the wireless services provider's or wireless
415 infrastructure provider's use of space on the utility pole. In any controversy
416 concerning the appropriateness of the rate, the City shall have the burden of
417 proving that the rates are reasonably related to the actual, direct, and reasonable
418 costs incurred for use of space on the utility pole for such period.
- 419 (3) For utility poles owned by the City that support aerial cables used for video,
420 communications, or electric service, the parties shall comply with the process for
421 make-ready work under 47 U.S.C. § 224 and implementing regulations. The good

- 422 *faith estimate of the City for any make-ready work necessary to enable the utility*
423 *pole to support the requested co-location shall include pole replacement if*
424 *necessary.*
- 425 (4) *For utility poles owned by the City that do not support aerial cables used for video,*
426 *communications, or electric service, the City shall provide a good faith estimate for*
427 *any make-ready work necessary to enable the utility pole to support the requested*
428 *co-location, including pole replacement, if necessary, within sixty (60) days after*
429 *receipt of a complete application. Make-ready work, including any pole*
430 *replacement, shall be completed within sixty (60) days of written acceptance of the*
431 *good faith estimate by the wireless services provider or a wireless infrastructure*
432 *provider.*
- 433 (5) *The City shall not require more make-ready work than required to meet applicable*
434 *codes or industry standards. Charges for make-ready work, including any pole*
435 *replacement, shall not exceed actual costs or the amount charged to other wireless*
436 *services providers, providers of telecommunications services, and nonpublic*
437 *providers of cable television and electric services for similar work and shall not*
438 *include consultants' fees or expenses.*
- 439
- 440 (f) *The application review process for co-locations of small cell wireless facilities within public*
441 *rights-of-way on City-owned existing structures shall comply with the following*
442 *requirements:*
- 443 (1) *Provided the applicant has and paid the appropriate application fee, within ten (10)*
444 *days after receipt of an application and a valid electronic mail address for the*
445 *applicant, the locality shall notify the applicant by electronic mail whether the*
446 *application is incomplete and specify any missing information; otherwise, the*
447 *application shall be deemed complete. Any disapproval of the application shall be*
448 *in writing and accompanied by an explanation for the disapproval.*
- 449 (2) *During review of a complete application, the Department may request applicant to*
450 *provide additional information which is reasonably required to the extent permitted*
451 *by law to determine the approvability of a permit in accordance with this Section*
452 *34-95.*
- 453 (3) *Within sixty (60) days of submittal of a complete application, the Department shall,*
454 *for each individual permit request included in an application: (i) approve the*
455 *individual permit request; or (ii) deny the individual permit request in writing,*
456 *including a written explanation of the reason[s] for denial. The Department may*
457 *extend the sixty (60) day period in writing for a period not to exceed an additional*
458 *thirty (30) days. The application shall be deemed approved if the Department fails*
459 *to act within the greater of the initial sixty (60) days or an extended thirty (30) day*
460 *period.*
- 461
- 462 (g) *Standards of Review for Applications and Bases for Denial.*
- 463 (1) *Upon confirmation that an application is complete, the Department shall review the*
464 *permit requests. No individual permit request included in a complete application*
465 *shall be denied except for one or more of the following reasons:*

- 466 (i) Lack of conformance with this division; applicable franchise,
467 encroachment, or other license agreement; applicable federal and state
468 law; or the City of Hampton Wireless Infrastructure and Small Cell Facility
469 Design Standards;
470 (ii) Material potential interference with other pre-existing communications
471 facilities or with future communications facilities that have already been
472 designed and planned for a specific location or that have been reserved for
473 future public safety communications facilities;
474 (iii) The public safety or other critical public service needs;
475 (iv) Only in the case of an installation on or in publicly owned or publicly
476 controlled property, excluding privately owned structures where the
477 applicant has an agreement for attachment to the structure, aesthetic
478 impact or the absence of all required approvals from all departments,
479 authorities, and agencies with jurisdiction over such property; or
480 (v) Conflict with an applicable local ordinance adopted pursuant to § 15.2-
481 2306, or pursuant to local charter on a historic property that is not eligible
482 for the review process established under 54 U.S.C. § 306108.

483 **State Code Reference:** §§ 56-484.26 et seq., and 15.2-2316.3, et seq.

484
485
486 **Sec. 34-96. – Non-Small Cell Wireless Facility Co-Locations within Public Rights-of-Way**
487 **on Third Party Existing Structures**

488
489 *Applications to co-locate non-small cell wireless facilities within public rights-of-way on third-party*
490 *existing structures shall comply with the following requirements:*

- 491 (a) *No Wireless infrastructure provider shall co-locate a small cell facility in or on any existing*
492 *structure located within any public rights of way without first obtaining a Wireless*
493 *Infrastructure Permit (WIP) from the Department in accordance with this division.*
494 (1) *Notwithstanding the foregoing, a WIP shall not be required for (i) routine*
495 *maintenance or (ii) the replacement of wireless facilities or wireless support*
496 *structures within a six-foot perimeter with wireless facilities or wireless support*
497 *structures that are substantially similar or the same size or smaller.*
498
499 (b) *Application for Permit. The Department shall establish a standard application form for*
500 *Wireless Infrastructure Permits under this section.*
501 (1) *Applicants may submit not more than one (1) individual permit request with each*
502 *application.*
503 (2) *Applicants shall deliver applications to the Department, together with an*
504 *application fee. No application shall be reviewed unless and until the application*
505 *fee has been paid.*
506 (3) *The application fee shall be \$500.00.*
507
508 (c) *Materials to be submitted with WIP applications to co-locate non-small cell wireless*
509 *facilities within public rights-of-way on third-party existing structures:*

- 510 (1) *When filing an application, an applicant shall submit the applicant's name and a*
511 *valid electronic mail address at which the applicant may be contacted;*
- 512 (2) *When filing an application, for each individual permit requested in the application,*
513 *the applicant shall provide, unless waived or modified by the Department:*
- 514 (i) *The address and latitude/longitude of the existing structure on which the*
515 *small cell facility will be co-located and the nearest Land Record Serial*
516 *Number (LRSN) from the City's Geographic Information System;*
- 517 (ii) *The name of the owner of the existing structure and an agreement or other*
518 *evidence showing the owner has granted permission to the applicant to co-*
519 *locate on the existing structure, which evidence may include the owner's*
520 *signature on the application or other documents;*
- 521 (iii) *Copies of any approvals for the site granted by a federal agency, including*
522 *conditions imposed by that agency;*
- 523 (iv) *Engineer-certified intermodulation study and other documentation to the*
524 *extent permitted by law demonstrating that the non-small cell facility and*
525 *operation thereof will not interfere with City pre-existing communications*
526 *facilities;*
- 527 (v) *Plans clearly depicting the dimensions and specifications of the non-small*
528 *cell facility, including the antennae, base station, and all assorted wireless*
529 *equipment;*
- 530 (vi) *Detailed elevation drawings showing the co-location of the non-small cell*
531 *facility, including the base station and all other associated equipment on*
532 *the existing structure; and*
- 533 (vii) *To the extent permitted by law, such additional materials as are listed on*
534 *the application form established by the Department and are reasonably*
535 *required by the Department to determine the approvability of a permit in*
536 *accordance with this Section 34-96.*
- 537
- 538 (d) *Any application not including the required application fee and all of the information listed*
539 *in this section may be deemed incomplete by the Department.*
- 540
- 541 (e) *The application review process to co-locate non-small cell wireless facilities within public*
542 *rights-of-way on third-party existing structures shall comply with the following*
543 *requirements:*
- 544 (1) *Provided the applicant has and paid the appropriate application fee, within ten (10)*
545 *days after receipt of an application and a valid electronic mail address for the*
546 *applicant, the locality shall notify the applicant by electronic mail whether the*
547 *application is incomplete and specify any missing information; otherwise, the*
548 *application shall be deemed complete. Any disapproval of the application shall be*
549 *in writing and accompanied by an explanation for the disapproval.*
- 550 (2) *During review of a complete application, the Department may request the applicant*
551 *to provide additional information which is reasonably required to the extent*
552 *permitted by law to determine the approvability of a permit in accordance with this*
553 *Section 34-96.*

554 (3) *Within ninety (90) days of submittal of a complete application, the Department shall*
555 *(i) approve the individual permit request; or (ii) deny the individual permit request*
556 *in writing, including a written explanation of the reason[s] for denial. The 90-day*
557 *period may be extended by mutual agreement in writing between the applicant and*
558 *the Department. The application shall be deemed approved if the Department fails*
559 *to act within the greater of the initial 90 days or within any mutually agreed*
560 *extension thereof.*

561
562 (f) *Standards of Review for Applications and Bases for Denial.*

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

566 (i) *Lack of conformance with this division, applicable federal and state law, or*
567 *the City of Hampton Wireless Infrastructure and Small Cell Facility Design*
568 *Standards;*

569 (ii) *The proposed wireless facilities have a negative aesthetic impact on the*
570 *surrounding area, considering the size and design of the facilities and the*
571 *historic, residential, or commercial character of the surrounding area;*

572 (iii) *The proposed wireless facilities pose a risk to the public safety, including*
573 *but not limited to public travel within the public way;*

574 (iv) *The proposed wireless facilities are inconsistent with the city's existing or*
575 *planned public safety communications system; or*

576 (v) *Alternative, less impactful locations which reasonably meet the needs of*
577 *the applicant are available for placement of the wireless facilities as allowed*
578 *by law.*

579 **State Code Reference:** *§§ 56-484.26 et seq., and 15.2-2316.3, et seq.*

580
581
582 **Sec. 34-97. – Non-Small Cell Wireless Facility Co-Locations within Public Rights-of-Way**
583 **on City-Owned Existing Structures**

584
585 *Applications to co-locate non-small cell wireless facilities within public rights-of-way on city-owned*
586 *existing structures shall comply with the following requirements:*

587
588 (a) *No Wireless infrastructure provider shall co-locate a non-small cell facility in or on any*
589 *City-owned existing structure located within any public rights of way without first obtaining*
590 *a Wireless Infrastructure Permit (WIP) from the Department and a franchise,*
591 *encroachment or other license agreement in accordance with this division.*

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

596
597 (b) *Application for Permit. The Department shall establish a standard application form for*

- 598 *Wireless Infrastructure Permits under this section.*
- 599 (1) *Applicants may submit not more than one (1) individual permit request with each*
- 600 *application.*
- 601 (2) *Applicants shall deliver applications to the Department, together with an*
- 602 *application fee. No application shall be reviewed unless and until the application*
- 603 *fee has been paid.*
- 604 (3) *The application fee shall be \$500.00.*
- 605
- 606 (c) *Materials to be submitted with WIP applications to co-locate non-small cell wireless*
- 607 *facilities within public rights-of-way on city-owned existing structures:*
- 608 (1) *When filing an application, an applicant shall submit the applicant's name and a*
- 609 *valid electronic mail address at which the applicant may be contacted;*
- 610 (2) *When filing an application, for each individual permit requested in the application,*
- 611 *the applicant shall provide, unless waived or modified by the Department:*
- 612 (i) *The address and latitude/longitude of the existing structure on which the*
- 613 *small cell facility will be co-located and the nearest Land Record Serial*
- 614 *Number (LRSN) from the City's Geographic Information System;*
- 615 (ii) *The name of the owner of the existing structure and an agreement or other*
- 616 *evidence showing the owner has granted permission to the applicant to co-*
- 617 *locate on the existing structure, which evidence may include the owner's*
- 618 *signature on the application or other documents;*
- 619 (iii) *Copies of any approvals for the site granted by a federal agency, including*
- 620 *conditions imposed by that agency;*
- 621 (iv) *Engineer-certified intermodulation study and other documentation to the*
- 622 *extent permitted by law demonstrating that the non-small cell facility and*
- 623 *operation thereof will not interfere with City pre-existing communications*
- 624 *facilities;*
- 625 (v) *Plans clearly depicting the dimensions and specifications of the non-small*
- 626 *cell facility, including the antennae, base station, and all assorted wireless*
- 627 *equipment;*
- 628 (vi) *Detailed elevation drawings showing the co-location of the non-small cell*
- 629 *facility, including the base station and all other associated equipment on*
- 630 *the existing structure; and*
- 631 (vii) *To the extent permitted by law, such additional materials as are listed on*
- 632 *the application form established by the Department and are reasonably*
- 633 *required by the Department to determine the approvability of a permit in*
- 634 *accordance with this Section 34-97.*
- 635
- 636 (d) *Any application not including the required application fee and all of the information listed*
- 637 *in this section may be deemed incomplete by the Department.*
- 638
- 639 (e) *Requirements for a franchise, license, or encroachment agreement:*
- 640 (1) *A franchise, license, or encroachment agreement to permit a wireless services*
- 641 *provider or a wireless infrastructure provider to attach non-small cell facilities to*

642 *City-owned structures shall be negotiated in good faith to arrive at mutually*
643 *agreeable contract terms and conditions, which may include but shall not be limited*
644 *to, compliance with the City of Hampton Wireless Infrastructure and Small Cell*
645 *Facility Design Standards; responsibility for all costs pertaining to the installation,*
646 *placement, maintenance, replacement or removal of the wireless facility on or from*
647 *the city-owned existing structure; responsibility for repairing all damage to the city-*
648 *owned existing structure resulting from the installation, placement, maintenance,*
649 *replacement or removal of the wireless facility on or from the existing structure, or*
650 *for paying the cost incurred by the city to repair the city facility; notification*
651 *requirements prior to commencement of work; bond requirements; and the right of*
652 *the city to remove any city facility at any time for the protection of the public health,*
653 *safety or welfare, with or without notice to the owner of the co-located wireless*
654 *facilities.*

655 (2) *Subject to any applicable requirements of Article VII, Section 9 of the Constitution*
656 *of Virginia, a franchise, encroachment, or other similar license agreement for the*
657 *construction of wireless support structures issued on or after July 1, 2017, shall be*
658 *for an initial term of at least ten (10) years, with at least three (3) options for renewal*
659 *for terms of five (5) years, subject to terms providing for earlier termination for*
660 *cause or by mutual agreement.*

661
662 (f) *The application review process for co-locations of non-small cell wireless facilities within*
663 *public rights-of-way on City-owned existing structures shall comply with the following*
664 *requirements:*

665 (1) *Provided the applicant has and paid the appropriate application fee, within ten (10)*
666 *days after receipt of an application and a valid electronic mail address for the*
667 *applicant, the locality shall notify the applicant by electronic mail whether the*
668 *application is incomplete and specify any missing information; otherwise, the*
669 *application shall be deemed complete. Any disapproval of the application shall be*
670 *in writing and accompanied by an explanation for the disapproval.*

671 (2) *During review of a complete application, the Department may request the applicant*
672 *to provide additional information which is reasonably required to the extent*
673 *permitted by law to determine the approvability of a permit in accordance with this*
674 *Section 34-97.*

675 (3) *Within ninety (90) days of submittal of a complete application, the Department shall*
676 *(i) approve the individual permit request; or (ii) deny the individual permit request*
677 *in writing, including a written explanation of the reason[s] for denial. The ninety*
678 *(90)-day period may be extended by mutual agreement in writing between the*
679 *applicant and the Department. The application shall be deemed approved if the*
680 *Department fails to act within the greater of the initial ninety (90) days or within any*
681 *mutually agreed extension thereof.*

682
683 (g) *Standards of Review for Applications and Bases for Denial.*

- 684 (1) Upon confirmation that an application is complete, the Department shall review the
685 permit requests. No individual permit request included in a complete application
686 shall be denied except for one or more of the following reasons:
687 (i) Lack of conformance with this division; applicable franchise,
688 encroachment, or other license agreement; applicable federal and state
689 law; or the City of Hampton Wireless Infrastructure and Small Cell Facility
690 Design Standards;
691 (ii) The proposed wireless facilities have a negative aesthetic impact on the
692 surrounding area, considering the size and design of the facilities and the
693 historic, residential, or commercial character of the surrounding area;
694 (iii) The proposed wireless facilities pose a risk to the public safety, including
695 but not limited to public travel within the public way;
696 (iv) The proposed wireless facilities are inconsistent with the city's existing or
697 planned public safety communications system; or
698 (v) Alternative, less impactful locations which reasonably meet the needs of
699 the applicant are available for placement of the wireless facilities as allowed
700 by law.
701

702 **State Code Reference:** §§ 56-484.26 et seq., and 15.2-2316.3, et seq.

703
704 **Sec. 34-98. – New Structure Installations within Public Rights-of-Way; Administrative**
705 **Eligible Review**

706
707 *Applications to install new structures that meet the definition of administrative review-eligible*
708 *project shall comply with the following requirement:*

- 709
710 (a) *No Wireless infrastructure provider shall co-locate a non-small cell facility in or on any*
711 *City-owned existing structure located within any public rights of way without first obtaining*
712 *a Wireless Infrastructure Permit (WIP) from the Department and a franchise,*
713 *encroachment or other license agreement in accordance with this division.*
714 (1) *Notwithstanding the foregoing, a WIP shall not be required for (i) routine*
715 *maintenance or (ii) the replacement of wireless facilities or wireless support*
716 *structures within a six-foot perimeter with wireless facilities or wireless support*
717 *structures that are substantially similar or the same size or smaller.*
718
719 (b) *Application for Permit. The Department shall establish a standard application form for*
720 *Wireless Infrastructure Permits under this section.*
721 (1) *Applicants shall submit one (1) application per proposed new structure location.*
722 (2) *Applicants shall deliver applications to the Department, together with an*
723 *application fee. No application shall be reviewed unless and until the application*
724 *fee has been paid.*
725 (3) *The application fee shall be \$500.00.*
726

- 727 (c) *Materials to be submitted with WIP applications to install new structures that meet the*
728 *definition of administrative review-eligible project:*
- 729 (1) *When filing an application, an applicant shall submit the applicant's name and a*
730 *valid electronic mail address at which the applicant may be contacted;*
- 731 (2) *When filing an application, for each individual permit requested in the application,*
732 *the applicant shall provide, unless waived or modified by the Department:*
- 733 (i) *The address and latitude/longitude of the proposed new structure, and the*
734 *nearest Land Record Serial Number (LRSN) from the City's Geographic*
735 *Information System;*
- 736 (ii) *Plans clearly depicting the dimensions and specifications of the new*
737 *structure and all wireless facilities to be attached to the new structure,*
738 *including the antennae, base station, and all assorted wireless equipment.*
739 *The plans shall depict all materials existing conditions in the vicinity of the*
740 *new structure, including but not limited to limits of the public right-of-way;*
741 *all existing public and privately-owned utility and infrastructure*
742 *improvements, such as water mains, water meters, sanitary sewer, storm*
743 *sewer, electrical, gas, telecommunications, manholes, stormwater basins,*
744 *sidewalks, curbs, gutters, street trees, and traffic signal facilities. For*
745 *convenience of site planning, it is highly recommended that the plans also*
746 *depict the proposed routing of utilities to the new structure;*
- 747 (iii) *Engineer-certified intermodulation study; and other documentation to the*
748 *extent permitted by law demonstrating that the wireless facilities to be*
749 *attached to the new structure, and operation thereof, will not interfere with*
750 *City pre-existing communications facilities;*
- 751 (iv) *Detailed elevation drawings, including the materials to be used, showing*
752 *the new structure and wireless facilities to be attached to the new structure,*
753 *including the base station and all other associated equipment;*
- 754 (v) *A copy of the written notice given to adjacent landowners at least 15 days*
755 *before the application is submitted, in accordance with any notice*
756 *requirements the City may prescribe.*
- 757 (vi) *Upon request from the Department, a copy of the franchise, encroachment,*
758 *or other similar license agreement, if applicable, from the City Council*
759 *allowing the installation of new structures in the City right-of-way; and*
- 760 (vii) *To the extent permitted by law, such additional materials as are listed on*
761 *the application form established by the Department and are reasonably*
762 *required by the city engineer to determine the approvability of a permit in*
763 *accordance with this Section 34-98.*
- 764 (d) *Any application not including the required application fee and all of the information listed*
765 *in this section may be deemed incomplete by the Department.*
- 766
- 767 (e) *The application review process for new structures to be installed within public rights-of-*
768 *way on City-owned existing structures shall comply with the following requirements:*
- 769 (1) *Provided the applicant has and paid the appropriate application fee, within ten (10)*
770 *days after receipt of an application and a valid electronic mail address for the*

771 applicant, the locality shall notify the applicant by electronic mail whether the
772 application is incomplete and specify any missing information; otherwise, the
773 application shall be deemed complete. Any disapproval of the application shall be
774 in writing and accompanied by an explanation for the disapproval. If the
775 Department is aware of any modifications to the project as described in the
776 application that if made would permit the locality to approve the proposed project,
777 the locality shall identify them in the written statement.

778 (2) During review of a complete application, the Department may request the applicant
779 to provide additional information which is reasonably required to the extent
780 permitted by law to determine the approvability of a permit in accordance with this
781 Section 34-98.

782 (3) Within ninety (90) days of submittal of a complete application, the Department shall
783 (i) approve the individual permit request; or (ii) deny the individual permit request
784 in writing, including a written explanation of the reason[s] for denial. The ninety
785 (90)-day period may be extended by mutual agreement in writing between the
786 applicant and the Department. The application shall be deemed approved if the
787 Department fails to act within the greater of the initial ninety (90) days or within any
788 mutually agreed extension thereof.

789
790 (f) Standards of Review for Application and Bases for Denial.

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

794 (i) Lack of conformance with this division; applicable franchise,
795 encroachment, or other license agreement; applicable federal and state
796 law; or the City of Hampton Wireless Infrastructure and Small Cell Facility
797 Design Standards;

798 (ii) The proposed new structure does not meet the definition of an
799 administrative-eligible review project.

800 (iii) The proposed wireless support structure or wireless facilities does not
801 comply with applicable law and the terms of the wireless facilities franchise
802 agreement, if applicable;

803 (iv) The proposed wireless support structure is not reasonably consistent with
804 existing structures and aesthetics, is not in harmony with the surrounding
805 improvements, or does not conceal within the pole all wires and supporting
806 equipment to the greatest extent possible;

807 (v) The proposed wireless support structure or wireless facilities poses a risk
808 to the public safety, including, but not limited to, public travel within the
809 public way;

810 (vi) The proposed wireless support structure or wireless facilities is inconsistent
811 with the City's existing or planned public safety communications system;

812 (vii) Alternative, less impactful locations which reasonably meet the needs of
813 the applicant are available for placement of the wireless facilities intended
814 to be attached to the wireless support structure as allowed by law.

815
816 (g) Use by City of new structures installed in public rights of way.
817 To the extent permitted by law, the City reserves the right to request the placement of city-
818 owned communication and signal wires and other related equipment and facilities on all wireless
819 support structures erected in its public ways, free of cost or expense to the City, provided that the
820 City equipment and facilities do not interfere with the structural integrity of the wireless support
821 structure and do not interfere with the use of the wireless support structure by the owner and other
822 existing users. An applicant's refusal of a request shall not be considered as a factor in the review
823 and approval or denial of a permit application.

824 **State Code Reference:** §§ 56-484.26 et seq., and 15.2-2316.3, et seq.

825
826
827 **Sec. 34-99. – New Structure Installations within Public Rights-of-Way; Standard Process**
828 **Project**

829 Applications to install new structures that meet the definition of a standard process project in
830 public rights-of-way shall comply with the following requirements:

831
832 (a) No wireless infrastructure provider shall install new structures that meet the definition of
833 standard process project within any public rights of way without first obtaining an individual
834 encroachment agreement as set forth in Division 1 of this article. Notwithstanding the
835 foregoing, if a franchise, encroachment, or similar license agreement has been approved
836 by the City Council pertaining to standard process projects, then the terms and conditions
837 of the franchise or similar license agreement shall govern the review and installation
838 process.

839 (1) If a small cell wireless facility is proposed to be attached to the new structure, then
840 the franchise, encroachment, or similar license agreement shall comply with the
841 requirements of Section 34-95(e).

842 (2) If a non-small cell wireless facility is proposed to be attached to the new structure,
843 then the franchise, encroachment, or similar license agreement shall comply with
844 the requirements of Section 34-97(e).

845
846 (b) Application for Permit. The Department shall establish a standard application form for
847 Wireless Infrastructure Permits under this section.

848 (1) Applicants shall submit one (1) application per proposed new structure location.

849 (2) Applicants shall deliver applications to the Department, together with an
850 application fee. No application shall be reviewed unless and until the application
851 fee has been paid.

852 (3) The application fee shall be an initial fee of \$500.00 paid at the time of the
853 application submittal. Should the actual direct costs to process the application,
854 including permits and inspections, exceed \$500.00, then the applicant shall pay
855 the remaining costs to the City upon written notification by the City.

856
857 (c) Materials to be submitted with WIP applications to install new structures that meet the
858 definition of standard process project:

- 859 (1) *When filing an application, an applicant shall submit the applicant's name and a*
860 *valid electronic mail address at which the applicant may be contacted;*
- 861 (2) *When filing an application, for each individual permit requested in the application,*
862 *the applicant shall provide, unless waived or modified by the Department:*
- 863 (i) *The address and latitude/longitude of the proposed new structure, and the*
864 *nearest Land Record Serial Number (LRSN) from the City's Geographic*
865 *Information System;*
- 866 (ii) *Plans clearly depicting the dimensions and specifications of the new*
867 *structure and all wireless facilities to be attached to the new structure,*
868 *including the antennae, base station, and all assorted wireless equipment.*
869 *The plans shall depict all materials existing conditions in the vicinity of the*
870 *new structure, including but not limited to limits of the public right-of-way;*
871 *all existing public and privately-owned utility and infrastructure*
872 *improvements, such as water mains, water meters, sanitary sewer, storm*
873 *sewer, electrical, gas, telecommunications, manholes, stormwater basins,*
874 *sidewalks, curbs, gutters, street trees, and traffic signal facilities. In*
875 *addition, the plans shall depict the proposed routing of utilities to the new*
876 *structure;*
- 877 (iii) *Engineer-certified intermodulation study; and other documentation to the*
878 *extent permitted by law demonstrating that the wireless facilities to be*
879 *attached to the new structure, and operation thereof, will not interfere with*
880 *City pre-existing communications facilities;*
- 881 (iv) *Detailed elevation drawings, including the materials to be used, showing*
882 *the new structure and wireless facilities to be attached to the new structure,*
883 *including the base station and all other associated equipment;*
- 884 (v) *A copy of the written notice given to to adjacent landowners at least 15*
885 *days before the application is submitted, in accordance with any notice*
886 *requirements the City may prescribe.*
- 887 (vi) *Upon request from the Department, a copy of the franchise, encroachment,*
888 *or other similar license agreement, if applicable, from the City Council to*
889 *allowing the installation of new structures in the City right-of-way, in*
890 *accordance with subsection (a) of this section; and*
- 891 (vii) *To the extent permitted by law, such additional materials as are listed on*
892 *the application form established by the Department and are reasonably*
893 *required by the city engineer to determine the approvability of a permit in*
894 *accordance with this Section 34-99.*
- 895
- 896 (d) *The application review process for new structures to be installed within public rights-of-*
897 *way on City-owned existing structures shall comply with the following requirements:*
- 898 (1) *Provided the applicant has and paid the appropriate application fee, within ten (10)*
899 *days after receipt of an application and a valid electronic mail address for the*
900 *applicant, the locality shall notify the applicant by electronic mail whether the*
901 *application is incomplete and specify any missing information; otherwise, the*
902 *application shall be deemed complete. Any disapproval of the application shall be*

- 903 *in writing and accompanied by an explanation for the disapproval. If the*
904 *Department is aware of any modifications to the project as described in the*
905 *application that if made would permit the locality to approve the proposed project,*
906 *the locality shall identify them in the written statement.*
- 907 (2) *During review of a complete application, the Department may request the applicant*
908 *to provide additional information which is reasonably required to the extent*
909 *permitted by law to determine the approvability of a permit in accordance with this*
910 *Section 34-99.*
- 911 (3) *Within ninety (90) days of submittal of a complete application, the Department shall*
912 *(i) approve the individual permit request; or (ii) deny the individual permit request*
913 *in writing, including a written explanation of the reason[s] for denial. The ninety*
914 *(90)-day period may be extended by mutual agreement in writing between the*
915 *applicant and the Department. The application shall be deemed approved if the*
916 *Department fails to act within the greater of the initial ninety (90) days or within any*
917 *mutually agreed extension thereof.*
- 918
- 919 (e) *Standards of Review for Application and Bases for Denial.*
- 920 (1) *Upon confirmation that an application is complete, the Department shall review the*
921 *permit requests. No individual permit request included in a complete application*
922 *shall be denied except for one or more of the following reasons:*
- 923 (i) *Lack of conformance with this division; applicable franchise,*
924 *encroachment, or other license agreement; applicable federal and state*
925 *law; or the City of Hampton Wireless Infrastructure and Small Cell Facility*
926 *Design Standards;*
- 927 (ii) *The proposed new structure does not meet the definition of an standard*
928 *process review project.*
- 929 (iii) *The proposed wireless support structure or wireless facilities does not*
930 *comply with applicable law and the terms of the wireless facilities franchise,*
931 *encroachment, or other license agreement, if applicable;*
- 932 (iv) *The proposed wireless support structure is not reasonably consistent with*
933 *existing structures and aesthetics, is not in harmony with the surrounding*
934 *improvements, or does not conceal within the pole all wires and supporting*
935 *equipment to the greatest extent possible;*
- 936 (v) *The proposed wireless support structure or wireless facilities poses a risk*
937 *to the public safety, including, but not limited to, public travel within the*
938 *public way;*
- 939 (vi) *The proposed wireless support structure or wireless facilities is inconsistent*
940 *with the City's existing or planned public safety communications system;*
- 941 (vii) *Alternative, less impactful locations which reasonably meet the needs of*
942 *the applicant are available for placement of the wireless facilities intended*
943 *to be attached to the wireless support structure as allowed by law.*
- 944
- 945 (f) *Use by City of new structures installed in public rights of way.*

946 *To the extent permitted by law, the City reserves the right to request the placement of city-*
947 *owned communication and signal wires and other related equipment and facilities on all wireless*
948 *support structures erected in its public ways, free of cost or expense to the City, provided that the*
949 *City equipment and facilities do not interfere with the structural integrity of the wireless support*
950 *structure and do not interfere with the use of the wireless support structure by the owner and other*
951 *existing users. An applicant's refusal of a request shall not be considered as a factor in the review*
952 *and approval or denial of a permit application.*

953 **State Code Reference:** §§ 56-484.26 et seq., and 15.2-2316.3, et seq.

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955
956 **Sec. 34-100. – Additional Provisions**

957 (a) *The Department reserves the right to attach additional conditions and requirements to any*
958 *WIP to the extent permitted by law.*

959 (b) *Relocation and Removal*

960 (1) *Nothing herein is intended to prohibit the City from requiring permittees to relocate*
961 *wireless support structures when relocation is necessary due to a transportation*
962 *project, the need to remove a hazard from the right-of-way when the Commissioner*
963 *of Highways determines such removal is necessary to ensure the safety of the*
964 *traveling public, or material change to the right-of-way, so long as other users of*
965 *the right-of-way that are in similar conflict with the use of the right-of-way are*
966 *required to relocate. Such relocation shall be completed as soon as reasonably*
967 *possible within the time set forth in any written request by the City for such*
968 *relocation, as long as the City provides the permittee with a minimum of 180 days'*
969 *advance written notice to comply with such relocation, unless circumstances*
970 *beyond the control of the City require a shorter period of advance notice. The*
971 *permittee shall bear only the proportional cost of the relocation that is caused by*
972 *the transportation project and shall not bear any cost related to private benefit or*
973 *where the permittee was on private right-of-way. If the City bears any of the cost*
974 *of the relocation, the permittee shall not be obligated to commence the relocation*
975 *until it receives the funds for such relocation. The permittee shall have no liability*
976 *for any delays caused by a failure to receive funds for the cost of such relocation,*
977 *and the City shall have no obligation to collect such funds. If relocation is deemed*
978 *necessary, the City shall work cooperatively with the permittee to minimize any*
979 *negative impact to the wireless signal caused by the relocation. There may be*
980 *emergencies when relocation is required to commence in an expedited manner,*
981 *and in such situations the permittee and the City shall work diligently to accomplish*
982 *such emergency relocation.*

983 (2) *Obsolete, unused, or abandoned small cell facilities shall be removed within twelve*
984 *(12) months of obsolescence, cessation of use or abandonment. A bond shall be*
985 *required, of sufficient amount, to cover removal.*

986 (c) *Insurance. Prior to the issuance of any WIP, the wireless infrastructure provider shall*
987 *provide a certificate of insurance showing that the wireless infrastructure provider has a*
988 *public liability insurance policy with limits of not less than one hundred thousand dollars*

989 (\$100,000.00) covering all wireless infrastructure within the public rights of way. The City
990 shall be a named additional insured on such policy.

991 **State Code Reference:** §§ 56-484.26 et seq., and 15.2-2316.3, et seq.

992
993

994 **Sec. 34-101—34-110. – Reserved.**

995

996 ~~Sec. 34-90. – Definitions.~~

997 ~~In accordance with Code of Virginia § 56-484.26, as amended, the following definitions~~
998 ~~apply to this division.~~

999 ~~*Antenna.* Communications equipment that transmits or receives electromagnetic radio~~
1000 ~~signals used in the provision of any type of wireless communications services.~~

1001 ~~*Co-locate.* To install, mount, maintain, modify, operate, or replace a wireless facility on,~~
1002 ~~under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless~~
1003 ~~support structure. "Co-location" has a corresponding meaning.~~

1004 ~~*Department.* The Department of Public Works.~~

1005 ~~*Existing structure.* Any structure that is installed or approved for installation at the time a~~
1006 ~~wireless services provider or wireless infrastructure provider provides notice to the city of an~~
1007 ~~agreement with the owner of the structure to co-locate equipment on that structure. "Existing~~
1008 ~~structure" includes any structure that is currently supporting, designed to support, or capable of~~
1009 ~~supporting the attachment of wireless facilities, including towers, buildings, utility poles, light~~
1010 ~~poles, flag poles, signs, and water towers.~~

1011 ~~*Micro-wireless facility.* A small cell facility that is not larger in dimension than twenty-four~~
1012 ~~(24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height and that has~~
1013 ~~an exterior antenna, if any, not longer than eleven (11) inches.~~

1014 ~~*Small cell facility.* A wireless facility that meets both of the following qualifications: (i) each~~
1015 ~~antenna is located inside an enclosure of no more than six (6) cubic feet in volume, or, in the~~
1016 ~~case of an antenna that has exposed elements, the antenna and all of its exposed elements~~
1017 ~~could fit within an imaginary enclosure of no more than six (6) cubic feet and (ii) all other~~
1018 ~~wireless equipment associated with the facility has a cumulative volume of no more than twenty-~~
1019 ~~eight (28) cubic feet, or such higher limit as is established by the Federal Communications~~
1020 ~~Commission. The following types of associated equipment are not included in the calculation of~~
1021 ~~equipment volume: electric meter, concealment, telecommunications demarcation boxes,~~
1022 ~~ground-based enclosures, back-up power systems, grounding equipment, power transfer~~
1023 ~~switches, cut-off switches, and vertical cable runs for the connection of power and other~~
1024 ~~services.~~

1025 ~~*Utility pole.* A structure owned, operated, or owned and operated by a public utility, local~~
1026 ~~government, or the Commonwealth that is designed specifically for and used to carry lines,~~
1027 ~~cables, or wires for communications, cable television, or electricity.~~

1028 ~~*Water tower.* A water storage tank, or a standpipe or an elevated tank situated on a support~~
1029 ~~structure, originally constructed for use as a reservoir or facility to store or deliver water.~~

1030 ~~*Wireless facility.* Equipment at a fixed location that enables wireless services between user~~
1031 ~~equipment and a communications network, including (i) equipment associated with wireless~~
1032 ~~services, such as private, broadcast, and public safety services, as well as unlicensed wireless~~

1033 ~~services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers,~~
1034 ~~antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable~~
1035 ~~equipment, regardless of technological configuration.~~

1036 ~~*Wireless infrastructure provider.* Any person, including a person authorized to provide~~
1037 ~~telecommunications service in the state, that builds or installs transmission equipment, wireless~~
1038 ~~facilities, or wireless support structures, but that is not a wireless services provider.~~

1039 ~~*Wireless services.* (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C) (i);~~
1040 ~~(ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including~~
1041 ~~commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile~~
1042 ~~communication devices through wireless facilities; and (iii) any other fixed or mobile wireless~~
1043 ~~service, using licensed or unlicensed spectrum, provided using wireless facilities.~~

1044 ~~*Wireless services provider.* A provider of wireless services.~~

1045 ~~*Wireless support structure.* A freestanding structure, such as a monopole, tower, either~~
1046 ~~guyed or self-supporting, or suitable existing structure or alternative structure designed to~~
1047 ~~support or capable of supporting wireless facilities. "Wireless support structure" does not include~~
1048 ~~any telephone or electrical utility pole or any tower used for the distribution or transmission of~~
1049 ~~electrical service.~~

1050 **State Law reference** — Definitions, Code of Virginia § 56-484.26.

1051 ~~Sec. 34-91. - Application, permit, and permit fees.~~

1052 ~~(a) — Application and permit generally.~~

1053 ~~(1) — Upon application by a wireless services provider or wireless infrastructure provider, the~~
1054 ~~department shall issue a permit granting access to all public rights-of-way to install and~~
1055 ~~maintain small cell facilities on existing structures, provided that the wireless services~~
1056 ~~provider or wireless infrastructure provider (i) has permission from the owner of the~~
1057 ~~structure to co-locate equipment on that structure and (ii) provides notice of the~~
1058 ~~agreement and co-location to the city.~~

1059 ~~(2) — The department shall approve or disapprove any such requested permit within sixty~~
1060 ~~(60) days of receipt of the complete application. Within ten (10) days after receipt of an~~
1061 ~~application and a valid electronic mail address for the applicant, the department shall~~
1062 ~~notify the applicant by electronic mail whether the application is incomplete and specify~~
1063 ~~any missing information; otherwise, the application shall be deemed complete.~~

1064 ~~(3) — Any disapproval shall be in writing and accompanied by an explanation for the~~
1065 ~~disapproval. The department may extend the sixty (60) day period in writing for a period~~
1066 ~~not to exceed an additional thirty (30) days.~~

1067 ~~(4) — The permit request shall be deemed approved if the department fails to act within the~~
1068 ~~initial sixty (60) days or an extended thirty (30) day period.~~

1069 ~~(5) — No such permit shall be required for providers of telecommunications services and~~
1070 ~~nonpublic providers of cable television, electric, natural gas, water, and sanitary sewer~~
1071 ~~services that, as of July 1, 2017, already have facilities lawfully occupying the public~~
1072 ~~rights-of-way under the locality's jurisdiction.~~

1073 ~~(b) — The department shall not impose any fee for the use of the rights-of-way, except for zoning,~~
1074 ~~subdivision, site plan, and comprehensive plan fees of general application, on a wireless~~

1075 ~~services provider or wireless infrastructure provider to attach or co-locate small cell facilities~~
1076 ~~on an existing structure in the right-of-way. A permit application processing fee of \$250.00~~
1077 ~~shall be charged.~~

1078 ~~(c) No fee shall be imposed and no application or permit shall be required for the installation,~~
1079 ~~placement, maintenance, or replacement of micro-wireless facilities that are suspended on~~
1080 ~~cables or lines that are strung between existing utility poles in compliance with national safety~~
1081 ~~codes. The department shall require a single-use right-of-way permit if such activities (i)~~
1082 ~~involve working within the highway travel lane or require closure of a highway travel lane; (ii)~~
1083 ~~disturb the pavement, shoulder, roadway, or ditch line; (iii) include placement on limited~~
1084 ~~access rights-of-way; or (iv) require any specific precautions to ensure the safety of the~~
1085 ~~traveling public or the protection of public infrastructure or the operation thereof, and either~~
1086 ~~were not authorized in or will be conducted in a time, place, or manner that is inconsistent~~
1087 ~~with terms of the existing permit for that facility or the structure upon which it is attached.~~

1088 **State Law reference**— ~~Access to locality rights-of-way for installation and maintenance of small~~
1089 ~~cell facilities on existing structures, Code of Virginia § 56-484.29. Sec. 34-92. - Term and~~
1090 ~~relocation.~~

1091 ~~(a) Except as provided in Article VII, Section 9 of the Constitution of Virginia, public right-of-way~~
1092 ~~permits or agreements for the construction of wireless support structures issued on or after~~
1093 ~~July 1, 2017, shall be for an initial term of at least ten (10) years, with at least three options~~
1094 ~~for renewal for terms of five years, subject to terms providing for earlier termination for cause~~
1095 ~~or by mutual agreement.~~

1096 ~~(b) Nothing in this division prohibits the department from requiring permittees to relocate~~
1097 ~~wireless support structures when relocation is necessary due to a transportation project, the~~
1098 ~~need to remove a hazard from the right-of-way when the Commissioner of Highways~~
1099 ~~determines such removal is necessary to ensure the safety of the traveling public, or material~~
1100 ~~change to the right-of-way, so long as other users of the right-of-way that are in similar conflict~~
1101 ~~with the use of the right-of-way are required to relocate.~~

1102 ~~(c) Such relocation shall be completed as soon as reasonably possible within the time set forth~~
1103 ~~in any written request by the department, as long as the department provides the permittee~~
1104 ~~with a minimum of one hundred eighty (180) days' advance written notice to comply with such~~
1105 ~~relocation, unless circumstances beyond the control of the department require a shorter~~
1106 ~~period of advance notice. The permittee shall bear only the proportional cost of the relocation~~
1107 ~~that is caused by the transportation project and shall not bear any cost related to private~~
1108 ~~benefit or where the permittee was on private right-of-way,~~

1109 ~~(d) If the department bears any of the cost of the relocation, the permittee shall not be obligated~~
1110 ~~to commence the relocation until it receives the funds for such relocation. The permittee shall~~
1111 ~~have no liability for any delays caused by a failure to receive funds for the cost of such~~
1112 ~~relocation, and the department shall have no obligation to collect such funds.~~

1113 ~~(e) If relocation is deemed necessary, the department shall work cooperatively with the~~
1114 ~~permittee to minimize any negative impact to the wireless signal caused by the relocation. In~~
1115 ~~the event of an emergency, the permittee and the department shall work diligently to~~
1116 ~~accomplish such emergency relocation.~~