

LEXINGTON PLANNING COMMISSION**August 26, 2021 - 5:00 P.M****First Floor Meeting Room (Community Meeting Room), Lexington City Hall
300 East Washington Street, Lexington, VA 24450****AGENDA**

- 1. CALL TO ORDER**
- 2. APPROVAL OF THE AGENDA**
- 3. APPROVAL OF MINUTES**
 - A. Minutes from August 12, 2021*
- 4. CITIZENS' COMMENTS ON MATTERS NOT ON THE AGENDA**
- 5. NEW BUSINESS**
 - A. EC COA 2021-05: An application by John Adamson for exterior improvements to the property at 539 E. Nelson Street, Tax Map #s 30-7-9, 30-7-8, 30-7-7, 30-7-6, owned by 539 East Nelson Street, LLC.
 - 1) Staff Report*
 - 2) Applicant Statement
 - 3) Public Comment
 - 4) Commission Discussion & Decision
 - B. ZOA 2021-03: Annual Zoning Ordinance Amendments, Small Cell facilities.
 - 1) Continued discussion of Small Cell text amendment*
 - 2) Public comment
- 6. OTHER BUSINESS**
 - A. Zoning Report
- 7. CITY COUNCIL REPORT**
- 8. ADJOURN**

*indicates attachment

MINUTES

The Lexington Planning Commission
 Thursday, August 12, 2021 – 5:00 p.m.
 Zoom Meeting – City Hall
 300 East Washington Street

Planning Commission:

Presiding: Jamie Goodin, Chair, *pro tem*
 Present: Leslie Straughan, Council Liaison
 Blake Shester
 Matt Tuchler
 Nicholas Betts

City Staff:

Arne Glaeser, Planning Department
 Kate Beard, Administrative Assistant

Absent: John Driscoll, Chair
 Pat Bradley, Vice-Chair

CALL TO ORDER

Due to the absence of the Chair and Vice-Chair, Secretary Glaeser called the meeting to order at 5:00 p.m.

ELECT TEMPORARY CHAIR

- A. Nominations – J. Goodin was nominated to serve as temporary Chair.
- B. Motion & Vote - **L. Straughan moved to elect J. Goodin as temporary Chair. B. Shester seconded and the motion passed unanimously. (5-0)**

AGENDA

M. Tuchler moved that items 6 A. and B. be moved on the agenda to after Other Business. L. Straughan seconded and the motion passed unanimously. (5-0)

MINUTES

Minutes from the June 24, 2021 were unanimously approved as presented and Notes from the July 8, 2021 meeting were unanimously accepted as corrected by M. Tuchler. (L. Straughan/M. Tuchler) N. Betts abstained, as this is his first meeting as a Commissioner.

J. Goodin welcomed Commissioner Betts and thanked him for his service.

CITIZENS' COMMENTS ON MATTERS NOT ON THE AGENDA

None

NEW BUSINESS

- A. **EC COA 2021-04: Application by Matthew Yager to replace the signage for BB&T now Truist Bank at 537 E. Nelson Street, Tax Map #30-1-8A, owned by the Bank of Rockbridge.**
 - 1) Staff Report – This request is to replace all existing signage on the subject parcel with the new Truist brand. All of the proposed drawings from the applicant show white lettering for Truist and either a blue background or a charcoal grey background as

options. With the exception of signs E06, E07, and E08, it appears all of the proposed signs do not exceed the display area or the height of the signs they are replacing. Signs E06, E07, and E08 are nonconforming signs and a nonconforming sign cannot be increased in size or height. The replacement of a nonconforming sign can only occur with a sign that is of equal size/height or with a sign that is smaller or shorter than the existing nonconforming sign. Signs E06, E07, and E08 appear to be taller than their replacement sign. The subject parcel is located in the Commercial Shopping Centers (C-2) zoning district and in the Entrance Corridor Overlay District (EC). Based on the above analysis, staff recommended approval of the proposed sign packet for the Truist rebranding at 537 East Nelson Street with the condition that signs E06, E07, and E08 not be increased in size or height.

- 2) Applicant Statement – None
- 3) Public Comment – None
- 4) Commission Discussion & Decision – Commissioners Shester and Betts both voiced approval for the blue background color. **M. Tuchler moved to approve the Entrance Corridor Certificate of Appropriateness application EC COA 2021-04 for the replacement signs for the Truist rebranding at 537 E. Nelson Street as proposed by the applicant with the condition that nonconforming signs cannot be increased in size or height. L. Straughan seconded.** After some additional discussion, the motion passed unanimously. (5-0)

B. SP 2021-04: Application by Russ Orrison for a site plan review for construction of the Center for Excellence on the Sigma Nu Educational Foundation property located at 9 N. Lewis Street, Tax Parcel #24-10-1, 24-10-2, 24-10-4, 24-10-4A, 24-10-5, 24-10-5A, 24-1-117, 24-1-118, 24-1-119, 24-1-121A, 24-1-119A, 24-1-121, 24-1-120.

- 1) Staff Report – This project proposes the construction of the Spears Family Epsilon Epsilon Center for Excellence with associated grading, utilities, and stormwater management on the Sigma Nu property. The Center for Excellence is a conference center and lodging facility to include a multi-purpose room, small conference room, and four sleeping pods with 20 beds each and one pod with 4 beds (84 beds total). A. Glaeser stated that the proposal meets the Master Plan conditions and zoning requirements pertaining to site design and use. He noted the landscape buffer as presented in the site plan meets all requirements and indicated that the applicant would address a proposed change to that specific part of the plan. A. Glaeser reviewed the landscape buffer height and density requirements and there was discussion of the existing vegetation along the property line and the role it will play in the landscape buffer.
- 2) Applicant Statement – Russ Orrison, Perkins & Orrison, explained that the landscaping plan presented in the application, consisting of Leyland Cypress, was designed simply to comply with zoning requirements and the Master Plan conditions. Since the site plan was submitted, Nick Murphy, CFO for Sigma Nu, has expressed interest in a more creative approach to the landscaping. Mr. Orrison requested the Commission consider approving the site plan with a provision allowing approval of any modification to the landscaping portion of the plan to be made administratively by the Zoning Administrator. Mr. Orrison explained how the stormwater facility

would drain and where it would tie into the City’s storm system. He stated there is currently no stormwater management on the property. There was discussion of the placement of the Leyland Cypress in relation to the existing mature vegetation. In response to a question from M. Tuchler, A. Glaeser confirmed Sigma Nu would be responsible for maintenance of the landscape buffer once it has been established. N. Betts questioned the significance of the notes about addressing made by the Fire Marshal and Police Department. A. Glaeser explained the addressing issue is not relevant to site plan approval and would be addressed during the building permitting process prior to the issuance of a Certificate of Occupancy.

3) Public Comment –

John Delany, 407 Morningside Drive – thanked Commissioners for listening to neighbors’ concerns and commended the Commissioners’ diligence in their review.

Mary Ellen Cook, 4 N. Lewis Street – expressed skepticism as to whether the “gravel road” located in the southwest corner of the property is actually owned by Sigma Nu and concern that its demolition would deprive the property of alternate access. She noted increased nighttime light levels on the Lewis Street side of the property and questioned whether the landscape buffer would shield adjacent properties from light associated with the new structure. She requested information regarding the new structure’s ADA compliance. She also expressed concern about demolishing the wooded area adjacent to Central Road and its impact on stormwater management.

- 4) Commission Discussion & Decision – B. Shester asked if there are any requirements addressing the use of native plants in landscaping. A. Glaeser answered that there are recommended plants listed in the landscape buffer section of the Zoning Ordinance, but “native plants” as such are not included in the list. In response to questions from L. Straughan, Mr. Orrison stated that while some of the wooded area would be cleared for construction of the drainage basin, most would remain. He also explained the new structure would be fully ADA compliant. L. Straughan asked if the proposed new outdoor lighting would be dark sky compliant and A. Glaeser confirmed it would. **L. Straughan moved to approve Site Plan number SP 2021-04 with landscaping modifications allowed by approval of the Planning Director if the modification meets the intent of the buffer requirements and to find the submitted site plan to be in compliance with the Zoning Ordinance. B. Shester seconded and the motion passed unanimously. (5-0)**

C. ZOA 2021-03: Annual Zoning Ordinance Amendments, Small Cell facilities.

- 1) Continued discussion of Small Cell text amendment – A. Glaeser briefly reviewed the steps the Commission would need to take to adopt small cell language using the Charlottesville example, which would require additions to multiple sections of the City Code. He suggested Williamsburg might provide a better model as Lexington’s Zoning Ordinance is structured similarly to Williamsburg’s and the language can be dropped in relatively easily. He recommended using Williamsburg as a model and offered to present a very rough draft for the Commission to review at the next meeting. He explained the draft amendment would include an addition to the use and design

standards section of the Zoning Ordinance, an addition to the Streets and Sidewalks section of the City Code, and additions to the Historic District Design Guidelines. Commissioners Tuchler and Straughan asked whether the Architectural Review Board should have input and at what point. A. Glaeser suggested the Planning Commission first draft an amendment and then have the ARB review it. J. Goodin asked if it would be possible to require all small cell facilities to be undergrounded. A. Glaeser answered that such a restriction would only be possible in an historic district, but he believed it might be possible. He suggested the Commission may want to consider different degrees of restriction for the downtown and residential districts, or even for different sections of the downtown district. There was discussion about the differences between macro and small cell facilities, what might precipitate a need for a small cell facility in Lexington, and who would make that determination. There was general agreement that at its next meeting the Commission would review a draft amendment based on the Williamsburg small cell language.

2) Public Comment - None

OTHER BUSINESS

J. Goodin asked the other Commissioners if they would be interested in a permanent agenda item listing zoning violations since the previous meeting. He said he would find it helpful and had discussed the possibility with the Planning Director prior to the meeting. A. Glaeser suggested a Zoning Report could be added to the agenda under Other Business to update the Commission on recent zoning enforcement or zoning related issues. Commissioners appeared enthusiastic about the addition. As an example, A. Glaeser provided the following:

- Staff is monitoring one short term rental because of a received comment.
- There were trash cans in front of a property on S. Main St. for a prolonged period of time. Staff has addressed the issue with the property manager.
- There are currently code enforcement actions pending against 3 separate properties for complaints concerning yard debris/property maintenance.
- There was a nonconforming parking use occurring at a property in a residential district. Staff advised the property owner that a nonconformity may not be enlarged or expanded.
- The Zoning Director recently assisted in the capture of a chicken on Diamond Street.

ELECT CHAIR & VICE-CHAIR

A. Elect Chairperson

- 1) Nominations – J. Goodin was nominated to serve as Chair.
- 2) Motion & Vote - **L. Straughan moved to elect J. Goodin as Chair. N. Betts seconded and the motion passed unanimously. (5-0)**

B. Elect Vice-Chair

- 1) Nominations – B. Shester was nominated to serve as Vice-Chair.
- 2) Motion & Vote – **L. Straughan moved to elect B. Shester as Vice-Chair. M. Tuchler seconded and the motion passed unanimously. (5-0)**

CITY COUNCIL REPORT

L. Straughan said the City has a new interim Finance Director, Jennifer Bell. During its August 5, 2021 meeting City Council approved the petition to rename New Market Place as Evergreen Place. Council anticipates getting feedback from the applicant and City staff about the ease of process soon. Council discussed a cigarette tax but decided to delay a decision until the County acts. There was no new development on the Spotswood projects. Councilperson Alexander, who is also a member of the Threshold Commission, announced to Council that Threshold hopes to talk more to Planning Commission about affordable housing and perhaps hold joint education sessions on the topic.

ADJOURN

The meeting was adjourned at 6:36 pm with unanimous approval (B. Shester/J. Goodin).

J. Goodin, Chair, Planning Commission

Project Name	Exterior improvements to 539 E. Nelson Street
Property Location	539 E. Nelson Street
Zoning	Entrance Corridor Overlay District (EC), Commercial Shopping Centers (C-2) zoning district
Owner/Applicant	John Adamson / 539 East Nelson Street, LLC

OVERVIEW OF REQUEST

This is a request to make exterior improvements to the property at 539 E. Nelson Street. The proposed improvements include replacement of all windows, freshening the exterior paint, installation of an HVAC screening fence, installation of a dumpster pad and screening enclosure, a new roof, new half round gutters and downspouts, and new landscaping of the Nelson Street side of the building. The window replacement and painting have already been completed. Photographs of the existing conditions and descriptions of the proposed improvements are included in the application.

location map



APPLICABLE ZONING DISTRICT SECTIONS

Section 420-3 of the zoning ordinance lists medical office as a permitted use by-right in the C-2 zoning district.

APPLICABLE ENTRANCE CORRIDOR REGULATIONS

Section 420-6.6.A requires a Certificate of Appropriateness be approved by the Planning Commission prior to 1) building permit issuance for exterior building modifications, 2) site plan approval, and 3) exterior color changes to a building or to a sign.

Section 420-6.7.B allows the Planning Commission to consider any architectural feature which influences appearance, such as, but not limited to, motif and style, color, texture and materials, configuration, orientation, mass, shape, height and location of buildings, location and configuration of parking areas, landscaping and buffering.

Section 420-6.8 states all applications for certificates of appropriateness must satisfy the following design standards for landscaping, signage, architecture, site planning, and lighting.

C. Architecture.

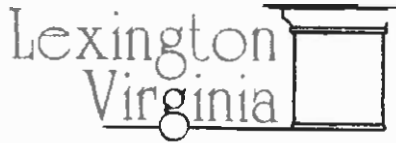
- (1) Materials, colors and general style of buildings within a development should be coordinated.
- (2) Heating and air-conditioning units, ventilation units, and mechanical equipment shall be screened from view from public streets.
- (3) Loading docks, trash containers and mechanical equipment shall be screened from view from public streets.
- (4) The effective visual mass of large buildings should be reduced by variations in roofline, building angles, dimensional relief, color, architectural detailing and landscaping.
- (5) Architectural styles, building and roofing materials, and colors shall be reflective of the traditional architecture of Lexington. This may be accomplished through building scale, materials and forms, all of which may be embodied in architecture which is contemporary as well as traditional.
- (6) Trademark buildings and related features shall be modified to meet these design standards.

STAFF RECOMMENDATION

Staff recommends approval of the exterior improvements to the existing building at 539 East Nelson Street.

SUGGESTED MOTION

I move to approve/deny the Entrance Corridor Certificate of Appropriateness application EC COA 2021-05 for the exterior improvements to the building located at 539 East Nelson Street as proposed by the applicant.



www.lexingtonva.gov

Planning & Development Department

P.O. Box 922

300 East Washington Street

Lexington, Virginia 24450

Phone: (540) 462-3704 Fax: (540) 463-5310

APPLICATION FOR CERTIFICATE OF APPROPRIATENESS – ENTRANCE CORRIDOR OVERLAY DISTRICT

Applicant¹

Name: John Adamson Phone: 804 750 9914 ext 2

Company: 539 East Nelson Street LLC Fax: _____

Address: 9301 River Rd Email: john@adamsondevelopment.com
Richmond, Va. 23229

Applicant's Signature: John Adamson Date: 8/2/21

Property Owner

Name: 539 East Nelson Street, LLC Phone: _____

Address: _____ Email: _____

Owner's Signature: John Adamson Date: 8/2/21

Architect/Designer

Name: [Signature] Phone: _____

Company: _____ Fax: _____

Address: _____ Email: _____

Administration

Application is hereby made to the Lexington Planning Commission for a Certificate of Appropriateness (COA) to make repairs, alterations, or improvements in the Entrance Corridor in accordance with Chapter 28, Article XV of the Lexington City Code.

This document shall constitute a valid COA upon its completion and execution by the Chairperson or Acting Chairperson of the Planning Commission. The recipient of a COA is responsible for obtaining any and all other certificates and permits required by the Code of the City of Lexington through the Office of the Planning and Development Administrator.

1. Prior to submitting an application, the applicant is required to meet with staff for a pre-application meeting.



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P.O. Box 922

300 East Washington Street

Lexington, Virginia 24450

Phone: (540) 462-3704 Fax: (540) 463-5310

Proposal Information² (attach list of properties if request includes multiple properties)

Address (or location description): 539 East Nelson Street

Tax Map: 30-7-9 (539) 30-7-7 (113) Deed Book and Page #: _____

Acreage: 0.72 Zoning (attach any existing conditions or proffers): _____

Property Doing Business As: Lewis Gale

2. Any application deemed incomplete by staff will not be accepted.

Alteration Description (complete a City Sign Permit Application for sign alterations)

I. Please check action(s) for which this COA is requested:

- Remodeling or renovation of the exterior of a building
- Total restoration of the exterior of a building
- Removal of any architectural element
- Painting of any building exterior
- Cleaning of wall surfaces or architectural elements
- Repair of all surfaces or architectural elements
- Any removal, alternation, repair, or construction of amenities such as fences or walls
- Demolition of part or all of an existing building
- Moving a building (complete Part III)
- Construction of a new building (complete Part III)
- Construction of any addition to an existing building (complete Part III)

II. For **ALL** projects, please attach the following:

- Photographs or drawings from the site showing adjoining structures, streets, and sidewalks
- Scale drawings of the improvements
- Detailed drawings of significant decorative or architectural elements
- Indication of exterior lighting adequate to determine its character and impact on the public and adjoining properties
- Samples of exterior materials and paint colors to be used
- Any other documentation or visual aid necessary to determine compliance with § 420-141 of the Lexington City Code

III. For **NEW CONSTRUCTION**, please provide the above attachments in addition to the following:

- Dimensions, orientation, and acreage of each lot or plot to be built upon
- Layout of the project and its relation to surrounding structures
- Location of points of entry and exit for motor vehicles and internal vehicular circulation pattern and parking facilities
- The size, shape, and location of existing and proposed construction on the parcel
- Location of walls, fences, and railings, and the indication of their height and the materials of their construction



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Planning & Development Department
P.O. Box 922
300 East Washington Street
Lexington, Virginia 24450
Phone: (540) 462-3704 Fax: (540) 463-5310

THIS SECTION TO BE COMPLETED BY STAFF ONLY

Application Fee: \$100 – Sign Permit Application Fee: \$50 Amount Paid: _____

Case Number: EC-COA- _____ - _____

Date Received: _____ Received By: _____

Staff Review

Applicant’s project would meet all district requirements.

Applicant fails to meet the district requirements.

Comments: _____

Planning and Development Director

Date

Action by Planning Commission

Approved

Denied

Comments: _____

Chairperson, Planning Commission

Date

9301 River Road
Richmond, Virginia 23229
T: 804-750-9914

August 10, 2021

City of Lexington
Planning Commission - COA
539 East Nelson Street

RE: COA Submittal for 539 East Nelson Street
Dba - Lewisgale

Summary of Action Items:

1. Replace the windows in the building due to multiple seal failures. Exterior window cladding will be changed from green to dark bronze. This work has been completed.
2. Freshen up the paint on the exterior stucco like surfaces as well as the cornice and gables. This work has been completed.
3. Doors will remain the current color (green) but may be updated in the future to dark bronze to match the windows.
4. Re-landscape the Nelson Street side of the building with (4) new flowering trees. We will be using the guidelines provided in 420-14.8 to help select the appropriate trees. See placement below with the proposed monument sign in blue.

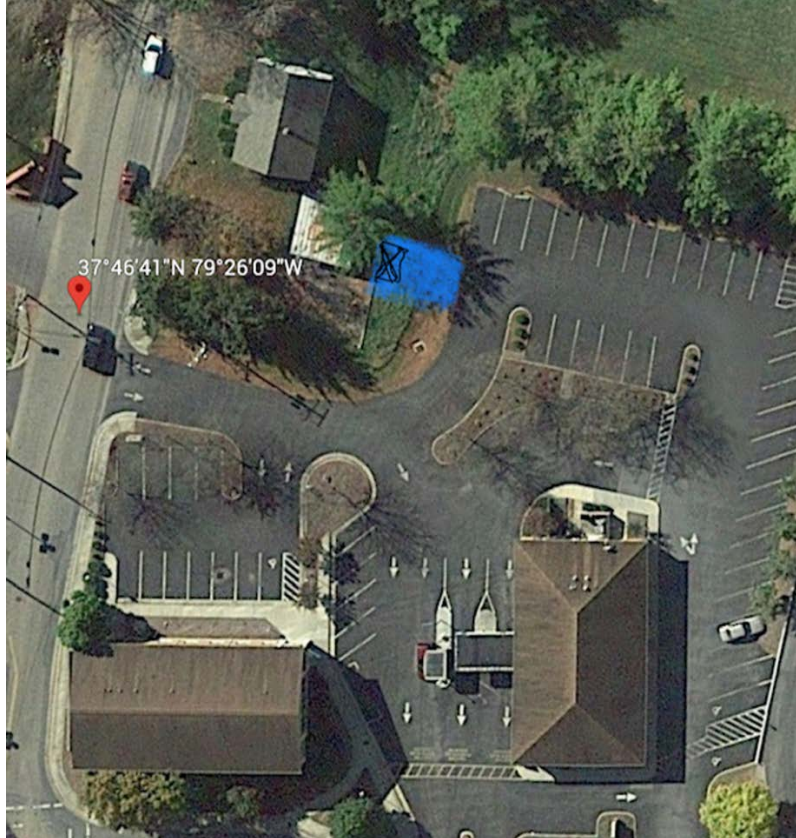


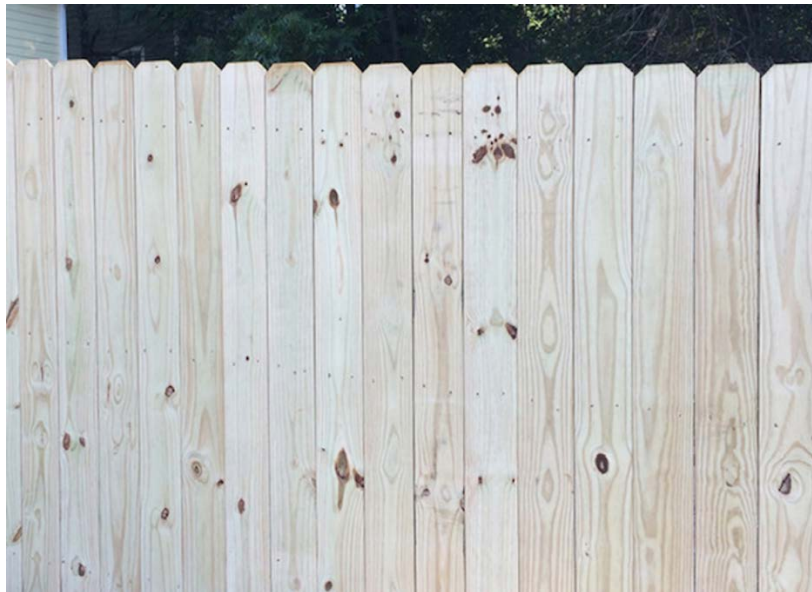
5. Install an HVAC screen fence on the Walker Street side of the property. It will be a 4' tall dog-eared fence plank attached to a steel structure for long term strength and rigidity. There will be a gate on the Nelson Street side of the structure for access to service the HVAC equipment. See sub-structure below. The shading in the picture is indicative of what it will look like once the fencing is installed. The fence will look like the picture provided and will be painted the trim color of the building.





6. Install a dumpster pad and enclosure behind 113 Walker Street accessed from the commercial parking lot. This dumpster shall be screened per section 420-14.6. See location and fencing design below.





7. Replace the shingle roof with new standing seam metal in a Dark Bronze color.
 - a. http://www.metalroofingsystems.biz/application/files/7615/5967/0691/MRS_Standard_Colors_2019.pdf
8. New half round gutters and downspouts. Gutters will be color matched to the roof of the building (Dark Bronze). The 4" downspouts will be dark bronze as well.



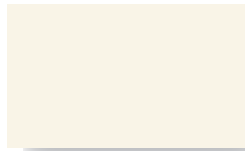
ENVIRONMENTALLY SMART COLORS - DESIGNED ENERGY EFFICIENT



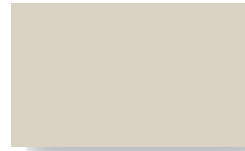
TERRA COTTA



AGED COPPER



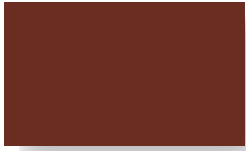
BONE WHITE



SANDSTONE



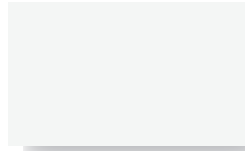
SURREY BEIGE



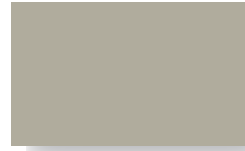
COLONIAL RED



PATINA GREEN



REGAL WHITE



ASH GRAY



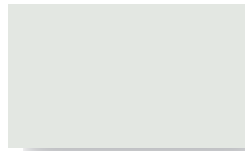
SIERRA TAN



REGAL RED



HEMLOCK GREEN



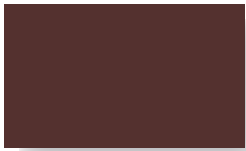
STONE WHITE



DOVE GRAY



MEDIUM BRONZE



BURGUNDY



HARTFORD GREEN



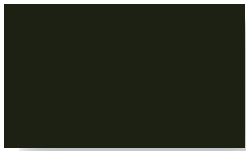
SLATE BLUE



SLATE GRAY



MANSARD BROWN



MATTE BLACK



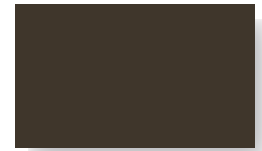
EVERGREEN



REGAL BLUE

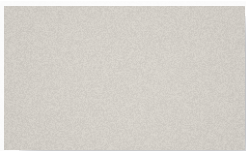


CHARCOAL GRAY



DARK BRONZE

METALLIC COLORS



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*COPPER



*CHAMPAGNE



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NON-PAINTED



ACRYLIC COATED GALVALUME™

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Draft amendments for Small Cell Facilities

In their 2017 session, the General Assembly passed SB1282 which impacts how the City assesses and approves wireless facilities both on and off city property. Small cell facility regulations are proposed to be added to a) the Lexington Zoning Chapter, b) to the Historic District Design Guidelines, and c) to the Streets and Sidewalks Chapter in accordance with the state regulations for small cell facilities.

The following report is divided into three sections and the **highlighted** items indicate proposed, amended language. The following table of contents for the Zoning Chapter identifies the two historic districts and the use and design standards for Broadcasting or Communication Tower that are proposed to be amended.

Chapter 420. Zoning Ordinance Table of Contents

Article I. In General

Article II. Review and Approval Procedures

Article III. Use Matrix.

Article IV. Zoning District Regulations

Article V. Planned Unit Development (PUD)

Article VI. Entrance Corridor Overlay District (EC)

Article VII. Institutional District I-1

Article VIII. **Historic Downtown Preservation District**

Article IX. **Residential Historic Neighborhood Conservation District**

Article X. General Floodplain District FP

Article XI. Use and Design Standards

§420-11.1. Residential Uses

§420-11.2. Civic Uses

§420-11.3. Commercial Uses

§420-11.4. Industrial Uses

§420-11.5. Miscellaneous Uses

1. Parking Facility

2. Portable buildings

3. Portable Storage Container

4. **Broadcasting or Communication Tower**

Article XII. Off-Street Parking and Loading Requirements

Article XIII. Signs

Article XIV. Landscaping

Article XV. Exterior Lighting

Article XVI. Nonconforming Uses

Article XVII. Amendments

Article XVIII. Enforcement

Article XIX. Board of Zoning Appeals

Article XX. Definitions

The Broadcasting or Communication Tower use and design standards will be reviewed first because they include the majority of the limitations imposed by the State in 2017.

A. Proposed Amendments to the Zoning Chapter

Pursuant to Section 15.2-2316.3 of the Code of Virginia, small cell facilities placed on existing structures are a use permitted in all zoning districts, and the City may require administrative approval. Amendments to the Lexington use and design standards for Broadcasting or Communication Towers are proposed to regulate this administrative approval of small cell facilities.

Article XII. Use and Design Standards (Lexington Zoning Chapter)

The following additional regulations apply to specific uses as set forth below. These regulations are intended to serve as the minimum standards for these uses, and are not intended to be in substitution for other provisions of this ordinance that may apply.

§420-11.5. Miscellaneous Uses.

4. Broadcasting or Communication Tower.

- A. Applicability. The requirements set forth in this section shall control all antennas and broadcasting or communication towers except any antenna that is under 75 feet in height and is owned and operated by a federally licensed amateur radio station operator.*
- B. General guidelines and requirements.*
 - 1. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or towers on that lot. Antennas or towers may be located on leased parcels within such lots. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this section shall not be deemed to constitute the expansion of a nonconforming use or structure.*
 - 2. Inventory of existing sites. Each applicant for an antenna and/or tower shall provide to the City an inventory of its existing facilities that are either within the City or within five miles of the City limits, including specific information about the location, height, and design of each tower. The City may share such information with other applicants applying for approvals or conditional use permits under this section or other organizations seeking to locate antennas within the City; provided, however, that the City is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.*
- C. Setbacks. The following setback requirements shall apply to all towers and antennas for which a conditional use permit is required; provided, however, that the City may reduce the standard setback requirements if the goals of this section would be better served thereby:*
 - 1. Towers must be set back a distance equal to 200% of the height of the tower from any off-site residential structure and in no case less than 400 feet.*

2. *Towers, guys, and accessory facilities must satisfy the minimum zoning district setback requirements for primary structures.*

5. Small cell facilities.

(The following language is from the Williamsburg zoning supplemental district regulations for small cell facilities and this language will require adjustments to fit Lexington.)

- A. *Intent. These regulations are established to allow small cell facilities in all zoning districts subject to the conditions contained herein.*

- B. *Definitions. As used in this article, unless the context requires a different meaning:*

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

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

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

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

"Micro-wireless facility" means a small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

"Small cell facility" means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

"Utility pole" means a structure owned, operated, or owned and operated by a public utility, local government, or the commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television or electricity.

"Water tower" means a water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

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

"Wireless infrastructure provider" means any person that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

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

"Wireless services provider" means a provider of wireless services.

"Wireless support structure" means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternative structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service. (Make sure all of the state definitions are brought forward.)

- C. Permitted use. Small cell facilities when co-located on an existing structure or utility pole on private property are permitted within all zoning districts of the City of Williamsburg with an administrative permit approved by the zoning administrator. Notwithstanding the above, small cell facilities proposed to be located within an AP or CP district must be approved by the architectural review board pursuant to sections 21-854 and 21-855, in addition to obtaining the administrative permit as provided herein.
- D. Administrative permit. Small cell facilities shall obtain an administrative permit prior to installing such co-located small cell facilities on existing structures and utility poles located on private property.
1. The following information shall be provided for each proposed location as part of the permit application:
- a. The name, trade name, address and email address of the applicant;
 - b. Name and address of the property on which the small cell facility is proposed to be located;
 - c. A description of the small cell facility to be installed, including dimensions, as well as all ground equipment proposed;
 - d. Evidence of approval of property owner for the installation of the small cell facility on the property;
 - e. A minor site plan showing the proposed location of small cell facility on the property as required by section 21-779 of this chapter;

- f. All other necessary or required approvals for the installation of the small cell facility, including but not limited to, ARB approval, if required.
 - g. Provide certification for each location that it does not interfere with other pre-existing communications facilities or with future communications facilities that have already been designed and planned.
2. An application fee of \$100.00 for up to five small cell facilities plus \$50.00 for each additional small cell facility applied for. No more than 35 locations for small cell facilities may be requested per application.
 3. Within ten days after receipt of an application, along with a valid email address for the applicant, the zoning administrator shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise the application shall be deemed complete.
 4. The zoning administrator shall approve or disapprove the application within 60 days of receipt of the completed application, which shall be in writing. The 60-day period may be extended, in writing, for a period not to exceed 30 days. If the zoning administrator fails to either approve or disapprove the application within the initial 60 days or an extended 30-day period, the application shall be deemed approved.
 5. A proposed location for installation of a small cell facility may be disapproved for the following reasons:
 - a. A 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;
 - b. Public safety or other critical public service needs;
 - c. If the small cell facility is proposed to be installed within an AP (Architectural Preservation) and CP (Corridor Protection) District and fails to obtain the necessary approvals of the ARB.
 6. Nothing shall prohibit an applicant from voluntarily submitting, and the city from accepting any conditions that otherwise address potential visual or aesthetic effects resulting from placement of small cell facilities, provided such conditions comply with applicable law and are approved by the ARB, if required.
- E. Abandoned facilities. Wireless facilities along with any structures or equipment associated therewith, shall be removed from any property within 60 days upon cessation of use or abandonment.
 - F. The installation, placement, maintenance or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes shall be permitted in all zoning districts, and exempt from the administrative permit requirement and fees herein provided.

(Ord. No. 17-19, 11-9-17, Williamsburg, VA) (staff note: does not include 2018 state update; modify as needed to comply with 2018 state update)

B. Proposed Amendments to the Historic Design Guidelines

Section 15.2-2316.3 of the Code of Virginia also allows the City to require small cell facilities comply with architectural review guidelines in historic districts and revisions to the Lexington Historic District Design Guidelines are proposed.

The Lexington Zoning chapter includes an article for the Historic Downtown Preservation District and another article for the Residential Historic neighborhood Conservation District. Both of these articles include criteria known as considerational factors that shall be contemplated before the issuance of a Certificate of Appropriateness by the Architectural Review Board. With the adoption of design guidelines in 2020, the considerational factors were amended to add any applicable provision of the city's design guidelines in the issuance of a Certificate of Appropriateness. The design guidelines can therefore be amended with new guidelines for small cell facilities, and any future small cell facility application must be in compliance with the adopted small cell design guidelines in order for the Architectural Review Board to approve a Certificate of Appropriateness.

Article VIII. Historic Downtown Preservation District (Lexington Zoning Chapter)

§420-8.6. Certificate of appropriateness.

A. *Action by Architectural Review Board.*

B. *Considerational factors. Before a certificate of appropriateness is issued by the Board, and upon conferring with the applicant for the certificate of appropriateness, the Board, in addition to other pertinent factors which may be involved in the execution of the purposes and objectives declared in §420-8.1, shall consider:*

1. *The historical or architectural value and significance of the building or structure and its relationship to or congruity with the historic value of the land, place or area in the Historic Downtown Preservation District upon which it is proposed to be located, constructed, reconstructed, altered or repaired.*
2. *The appropriateness of the exterior architectural features of such building or structure to such land, place or area and its relationship to or congruity with the exterior architectural features of other land, places, areas, buildings or structures in the Historic Downtown Preservation District and environs.*
3. *The general exterior design, arrangement, textures, materials, planting and color proposed to be used in the location, construction, alteration or repair of the building, structure or improvement and the types of windows, exterior doors, lights, landscaping and parking viewed from a public street, public way or other public place and their relationship to or congruity with the other factors to be considered by the Board under this section.*

4. ***Any applicable provisions of the city's design guidelines***

(Proposal is to add new small cell facility design guidelines to the Lexington Historic District Design Guidelines)

- C. *Factors not necessarily considered.*

Article IX. Residential Historic Neighborhood Conservation District (Lexington Zoning Chapter)

§420-9.8. Considerational factors.

Before a certificate of appropriateness is issued by the Board for work within these Residential Historic Neighborhood Conservation Districts, and upon conferring with the applicant for the certificate of appropriateness, the Board, in addition to considering the purposes and objectives specified in §420-9.1, shall consider:

- A. *The appropriateness of the exterior architectural features of the building and its relationship to or congruity with the exterior architectural features of other land, places, areas, buildings or structures in the Residential Historic Neighborhood Conservation District and environs.*
- B. *The general exterior design, arrangement, textures, and materials proposed to be used in the construction of the building when viewed from the public street (or streets in the case of a corner lot) along the lot front of said building and its relationship to the other factors to be considered by the Board under this section. Among other things, the Board is to consider the overall architectural design, form and style, including the height, mass, proportion and scale; architectural details, such as the design and style of decorative or functional fixtures, such as lighting, windows and doors; the design and arrangement of buildings on the site; and the texture and materials of a proposal when assessing architectural compatibility.*
- C. **Any applicable provisions of the city's design guidelines.**

(Proposal is to add new small cell facility design guidelines to the Lexington Historic District Design Guidelines)

Lexington, Virginia Historic District Design Guidelines Table of Contents

(The full Lexington Historic District Design Guidelines can be found at <http://lexingtonva.gov/civicax/filebank/blobdload.aspx?t=59454.53&BlobID=28194>)

- 1. Introduction
- 2. Planning your project
- 3. Architectural & development overview
- 4. Guidelines for site design
 - A. Walkways, driveways & parking
 - B. Plantings & trees
 - C. Fences & walls
 - D. Lighting
 - E. Outbuildings, garages, & other site features

F. Site appurtenances

(Proposal is to add new small cell facility design guidelines to the site appurtenances section of the guidelines for site design)

5. Guidelines for existing buildings – elements
6. Guidelines for existing buildings – materials
7. Guidelines for new construction & additions
8. Guidelines for awnings, canopies & marquees
9. Guidelines for signs
10. Guidelines for painting
11. Guidelines for energy conservation
12. Guidelines for accessibility
13. Guidelines for archaeology
14. Guidelines for vacant buildings
15. Moving & demolition

Lexington, Virginia Historic District Design Guidelines

IV. SITE DESIGN

F. Site appurtenances

Site appurtenances, such as overhead wires, fuel tanks, utility poles and meters, antennae and satellite dishes, exterior HVAC units, and trash containers, are a necessary part of contemporary life. The placement of these items can either have a neutral impact on the character of the site and structure or detract from their historic appearance.

Site features fall into two categories: those features that can be controlled by the property owner – antennae, satellite dishes, mechanical units, trash containers, etc. – and those that cannot – overhead wires, utility poles, etc.

Guidelines:

1. *Place site appurtenances such as HVAC equipment in inconspicuous areas to the rear of the building, or in side yards, and screen with appropriate plantings or fencing while allowing for sufficient air flow. Site appurtenances should not be placed in location visible from a public right of way if possible.*
2. *Antennae, satellite dishes, and solar panels can be located on rooftop location not visible from the public right of way. Do not install satellite dishes on parts of the building's façade or porch.*
3. *Store trash containers in screened locations not visible from the public rights of way.*
4. *Consider placing overhead utilities coming to the private site underground whenever possible.*
5. *For commercial buildings with limited site space, place mechanical units on sections of the roof that are not visible from public rights of ways if possible, and screen the units as needed.*

(Included in this section are 5 photographic examples of site appurtenances.)

[\(The following language is proposed to be inserted at the end of the existing section of the Lexington Historic District Design Guidelines devoted to site appurtenances. The following language is from the Town of Middleburg, VA Historic District Design Guidelines for “small cell](#)

facilities and other wireless antennas and infrastructure” and adjustments will be needed to fit Lexington.)

In 2018, the Federal Communications Commission (FCC) issued guidance and adopted rules to streamline wireless infrastructure siting review processes to facilitate the deployment of next-generation wireless facilities.¹ To address the growing demand for wireless technology across the United States, cellular providers propose to increase the capacity of their networks by deploying small cell infrastructure, a new lower-powered antenna technology, to reduce data traffic load on larger cell towers. This new technology requires infrastructure to be installed in closer proximity to the users on the ground and this infrastructure will affect the aesthetics of public spaces.

In its order, the FCC concluded that aesthetics requirements are not preempted if they are (1) reasonable, (2) no more burdensome than those applied to other types of infrastructure deployments, and (3) objective and published in advance.¹ As with other types of antennas and utility facilities providing contemporary functionality, small cell antennas (and its supporting equipment) and other wireless antennas, such as those providing municipal wi-fi, are generally incompatible with the character of the Downtown and Residential Historic Districts, and their inappropriate location can have a negative visual impact on those Districts.

In concert with the preceding guidelines for site design and elements, the following guidelines are provided pertaining to small cell and other wireless antennas and infrastructure (collectively “facilities”):

1. To the greatest extent practicable, such facilities must be hidden from view.
2. Any small cell or other wireless antenna must be as small as possible consistent with the requirements for reception and transmission, but in no case shall any antenna exceed **three (3) cubic feet in volume**.
3. All other wireless equipment associated with any such facility must also be as small as possible consistent with the requirements for reception and transmission, but in no case shall such equipment have a cumulative volume of more than 28 cubic feet
4. If located on or adjacent to a building, such facilities must be located in the most inconspicuous location.
5. In no case shall any installation of such facilities to a building be done in such a manner that the method of attachment will cause harm or degradation to the building facade, architectural features or any structural element.
6. Such facilities should not be mounted on front roofs of buildings because they create visual disruption of the historic streetscape and are difficult to screen effectively. Such facilities shall not disrupt the architectural character of a structure; rather, they should be hidden behind architectural features, such as a parapet. If there is no parapet, they shall be mounted as far back from the roof line as possible and painted to match the predominant color of the roof to limit visibility from a public right-of-way.

¹ Accelerating Wireless and Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, Fed. Reg. Vol. 83, No. 199 (Oct. 15, 2018). Federal Register: The Daily Journal of the United States Government.

7. Conduit and cabling should not be installed on building facades that may be seen from the public right-of-way. If there is no practicable alternative such as interior cabling or location on a non-visible facade, then any such conduit or cabling must be as minimal in size as possible and of a color compatible with the structure.
8. Any facilities collocated on existing utility poles or on new support structures shall be in a matte black finish.
9. Aside from antennas and cabling, no other facilities should be collocated on existing utility poles. Any additional required facilities (e.g. equipment cabinet) should be ground mounted.
10. Aside from antennas and cabling, no other facilities shall be located on a new support structure. Any additional required facilities (e.g. equipment cabinet) shall be ground mounted.
11. Any ground mounted facilities shall be completely enclosed and screened with vegetation. When located adjacent to a building, such ground mounted facilities may alternatively be screened with an enclosure of material and color compatible with the building.
12. New support structures (i.e. poles) for such facilities are not appropriate on Main Street between ? Street and ? Street. This core section of the Downtown Historic Preservation is predominantly characterized by buildings sited directly to, and sometimes encroaching into, the public right-of-way. Coupled with often narrow sidewalks and decorative streetlights, this section of Main Street does not offer an appropriate setting for new support structures and facilities. Alternatively, applicants should look to existing utility pole infrastructure located off of, and behind structures along, Main Street for collocation of such facilities.
13. If collocation on existing utility pole infrastructure is not feasible, any new support structures for such facilities should be sited alongside existing utility pole infrastructure located off of, and behind structures along, Main Street in existing rights-of-way or utility easements. Location away from existing sidewalks and streets is preferred.
14. Any new support structure that must be located along or adjacent to an existing sidewalk or street shall be round, smooth metal in a matte black finish, should be no larger than 6" in diameter and shall provide for interior cabling. The height of any such structure shall be no higher than necessary consistent with the requirements for reception and transmission, but in no case shall exceed 30 feet in height. Deployments needing additional height shall collocate on an existing building or utility pole or on a new support structure located away from existing sidewalks and streets.
15. Any new support structure located along an existing sidewalk or street shall align with existing features such as utility poles and trees as to maintain organization and keep out of the pedestrian path.

16. New support structures located away from existing sidewalks and streets, and alongside or in line with existing utility poles, may match such existing utility poles in design and material. Such new support structures should be no taller or larger in diameter than such existing utility poles. Cabling along any wood support structure shall be within conduit or otherwise covered, with such conduit or covering to be in a matte black finish.
17. In no case shall any new support structure or facilities impede safe and convenient pedestrian circulation or vehicular traffic, to include VDOT standards for sight distances, nor create any conflict with access to and from public or private parking spaces.
18. In no case shall any new support structure or facilities violate applicable local, state or federal law, including the Americans with Disabilities Act.
19. In no case shall any new support structure or facilities be located within 15 feet from an existing fire hydrant or building's fire department connection.
20. Any proposed pruning or removal of trees, shrubs or other landscaping in conjunction with the location or collocation of such facilities must be approved by the City. In all cases, tree "topping" or other improper pruning is prohibited. In no case shall the City be obligated to approve removal of a tree from the public right-of-way or from private property where such tree is required by a site plan governing the property's development.

(Town of Middleburg, Virginia, adopted 4/11/19)

C. Proposed Amendments to the Streets and Sidewalks Chapter

Section 15.2-2316.3 of the Code of Virginia requires a city to allow an application for a right of way permit to access the public right of way for the purpose of installing small cell facilities onto privately owned structures located within the public right of way. The wireless provider must have permission from the owner of the structure to co-locate and provides notice of that agreement and co-location to the locality. Following are proposed amendments to the Lexington Streets and Sidewalks Chapter to allow access to the public right of way for the purpose of installing small cell facilities.

Chapter 356 Streets and Sidewalks Table of Contents (Code of the City of Lexington)

1. Street system
2. Public alleyways
3. Installation and repair of sidewalks, curbs and gutters
4. Driveway crossings over existing sidewalks
5. Duty of City Manager as to improvements and repairs
6. Care of City trucks and equipment used on streets
7. Tampering with structures on streets
8. Excavation permits
9. Wires and cables
10. Unauthorized occupation or use
11. Depositing wood, coal, lumber and other materials
12. Barriers around construction
13. Removal of permanent obstructions
14. Vegetation obstructing view at intersections
15. Removal of snow from sidewalk or footway
16. Discharge of water
17. Gutters for buildings where eaves project over sidewalk
18. Flags and flagstaffs
19. Parades and processions
20. Marking and naming of streets
21. Goods, wares and merchandise
22. Loafing and loitering

Code of the City of Lexington, VA
Chapter 356 Streets and Sidewalks

§ 356-8 Excavation permits. *(Note: this is the closest thing in Lexington to a right of way permit.)*
(The following language is from the Williamsburg “use permits for public rights of way and places” and this language will require adjustments to fit Lexington.)

- A. *Except as provided in section 356-9, No person shall excavate or disturb the surface of any street without first obtaining from the City Manager or his designated representative a permit for the performance of the contemplated project. The word "person" as used in this section shall include any firm, association, cooperation and utility company.*
- B. *Emergency excavations may be made without an advance permit, but application for a permit will be submitted within 48 hours after commencement of the excavation.*
- C. *The permit application shall be in writing describing the project, its location, the area of street disturbance necessary and the contemplated dates of commencement and completion of the project.*
- D. *Each application for a permit shall have attached a check payable to the City Treasurer in the amount of \$25 to cover the permit fee, which sum shall be refunded in the event the application is denied, except that in no event shall any person be required to pay an amount exceeding \$2,500 in permit fees per City fiscal year.*
- E. *The applicant, upon issuance of the permit, who is not otherwise under bond or a franchise, shall post a performance bond or in lieu thereof a certified check in such amount to be determined by the City Manager to insure compliance with the restoration and repair requirements of this section, the amount of such bond not to exceed the bond required by other franchise utilities, which bond shall be effective for the period of one year from the date of completion of the project.*
- F. *Any person disturbing the surface of any street shall repair the same in accordance with the current specifications of the Virginia Department of Transportation (Road and Bridge Specifications, § 303.10, Backfilling of Opening, and § 303.11, Embankments) or in accordance with subsequent amendments thereto and shall be responsible for maintaining such repairs for a period of one year from the date of project completion.*
- G. *Upon completion of the project, the street shall be marked by the applicant in such manner and color as may be designated and assigned by the City Manager.*
- H. *Any person who fails to obtain a permit as required by this section or, upon issuance of a permit, fails to comply with the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$25 nor more than \$200. Each day's continuance thereof shall be a separate offense. Any such violation shall be deemed a nuisance and the court or trial justice trying the case shall have power to cause the nuisance to be abated and to commit the offenders and all their agents and employees engaged in such offenses in jail until such order of the court shall be obeyed.*
- I. *The fee and bond requirements of this section shall be waived as to any person performing work on behalf of the City*

§ 356-9 Wireless facilities within city rights-of-way

(a) Definitions. As used in this article, unless the context requires a different meaning:

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

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

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

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

"Micro-wireless facility" means a small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

"Small cell facility" means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

"Utility pole" means a structure owned, operated, or owned and operated by a public utility, local government, or the commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television or electricity.

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

"Wireless infrastructure provider" means any person that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

"Wireless services" means: (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)(i); (ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including

commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.

"Wireless services provider" means a provider of wireless services.

"Wireless support structure" means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternative structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service. (Make sure all of the state definitions are brought forward)

- (b) Application. Wireless service providers installing small cell facilities co-located on existing structures shall utilize the application process as provided in section 9-364, except that the permit processing fee for such application(s) shall not exceed \$250.00. Said application shall either be approved or disapproved within 60 days of the date the completed application is received. The 60-day period may be extended in writing for a period not to exceed 30 days. The applicant shall be notified within ten days from the date the application is received if the application is incomplete and specify any missing information. Said application shall also contain notice of an agreement to co-locate on one or more existing structures in the rights-of-way.
- (c) Wireless service providers installing or maintaining micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes shall not be required to obtain a permit except as herein below provided. The wireless provider shall notify the city in the event that they propose to install or repair micro-wireless facilities within a public right-of-way at least 24 hours prior to performing the work. A permit may be required by the city in the event that the work involves working within the highway travel lane or requires closure of a highway travel lane, disturbs the pavement, shoulder, roadway or ditch line, includes placement on a limited access right-of-way, or requires any specific precautions to ensure safety of the traveling public or the protection of public infrastructure or the operation thereof, and either were not authorized in or will be conducted in a time, place and manner that is inconsistent with terms of an existing permit for that facility or the structure upon which it is attached. In the event an application is required to obtain a permit herein, no application fee shall be required for such application.
- (d) Wireless facilities other than co-located small cell facilities or wireless facilities shall only be permitted within city rights-of-way with the approval of city council as part of a franchise application for use of the public rights-of-way, consistent with state law.
- (e) Wireless facilities permitted within city rights-of-way which cease to be used or which are abandoned shall be removed from city rights-of-way within 60 days upon cessation of use or abandonment.

(Ord. No. 17-19, 11-9-17, Williamsburg, VA)