



City of Revere
City Council

City Council Order No. CZ-20-03/20-110

Date: June 8, 2020

Offered by Revere City Council

Be it ordained by the City of Revere as follows:

**AN ORDINANCE FURTHER AMENDING THE ZONING ORDINANCE OF
THE CITY OF REVERE REGULATING SMALL CELL WIRELESS
FACILITIES IN THE PUBLIC WAY**

SECTION 1. Title 17, Chapter 17.16, Section 17.16.110 of the Revere Revised Ordinances is hereby amended by deleting the entry “17.16.110 – Towers and telecommunications facilities” and inserting in place thereof “17.16.110 – Towers and telecommunications facilities; excluding small cell wireless facilities in the public right of way.”

SECTION 2. Title 17, Chapter 17.16, of the Revised Ordinances of the city of Revere is hereby amended by inserting the following new chapter:

17.16.115 – Small cell wireless facilities in the public right of way.

A. Purpose.

It is the purpose of this chapter to establish specific standards and procedures to authorize the installation of small cell wireless facilities on utility poles located in the public way. In addition to providing for reasonable regulation and orderly deployment of small cell wireless facilities, this chapter seeks to ensure the safety, non-interference, and visual quality of the public right of way and the city generally, while also providing the benefits of improved cell service. Notwithstanding any provision in the Revere Revised Ordinances to the contrary, this chapter shall govern such installations.

B. Authority.

Consistent with Mass. Gen. Laws ch. 166, by amending the Revere Revised Ordinances to include this chapter, the City Council has voted to authorize the Director of Municipal Inspections to issue permits for small cell facilities that satisfy the criteria identified in this chapter.

C. Definitions.

1. "Applicant" means any person, corporation, business, company or other entity or organization submitting an application to install a small cell facility.
2. "Application" means a formal request submitted to the Department of Municipal Inspections for a permit to install small cell facilities in the public right of way.
3. "Small cell facility" means facilities defined by the Federal Communications Commission (FCC) in 47 C.F.R. 1.6002(I) for the provision of personal wireless services, including, but not limited to, commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, and its equipment, which shall include, but not be limited to, antenna, radio, power source and meter, disconnect switch, fiber optic cable, required signage, and supporting equipment associated with wireless communications, if any, installed on a utility pole.
4. "Utility pole" means either a privately owned or city-owned utility pole, or similar structure, located in the public right of way, used to support lighting, electric cables, telephone cables, telecommunication cables, or a similar function.
5. "Right of way" means the area on, below, or above a public roadway, highway, street, sidewalk, alley, park, or similar public property within the city of Revere.

D. Application.

1. No applicant shall install a small cell facility without first obtaining a permit as provided in this chapter.
2. As part of the application process, an applicant shall first present the proposed small cell facility installation to the city of Revere Site Plan Review Committee for review in accordance with Revere Revised Ordinance chapter 17.17, where applicable.
3. All applications submitted pursuant to this section shall include the below described information. An applicant may seek permits for small cell facilities for multiple locations, and if so, shall include the following information for each such location under separate permits:
 - a. The application shall state: (i) name and address of the applicant; (ii) name and address of the owner(s) of the utility pole; (iii) utility pole number; (iv) name, address, telephone number, and

email address of petitioner's attorney or agent; (v) name, address, telephone number, and email address of small cell facility owner(s)/wireless provider and (vi) address of nearest habitable structure or building including residential, municipal, schools, and/or business.

b. Plan, stamped and signed by a professional engineer, with a general description of the proposed work and showing the subject utility pole and the proposed small cell facility equipment from the power utility connection forward. Drawings shall be provided to scale with dimensions to show the pole length, and mounting configuration and heights of the small cell facility equipment. The electric meter socket shall be immediately followed by an emergency power disconnect, said disconnect to be immediately accessible to the Fire Department. Should an electric meter socket not be required by the power company, the emergency power kill shall be provided at the minimum equipment elevation provided in section 17.16.115(E)(7). The engineer shall also comment on the poles ability to support the equipment in consideration of severe weather conditions per the Massachusetts State Building Code for the coastal community of Revere.

c. Letter or license from the owner(s) of the utility pole, authorizing the installation of the small cell facility. Such a letter or license shall be deemed to constitute a structural certification by the owner(s) of the utility pole attesting to the integrity of the utility pole to support the small cell facility.

d. Evidence sufficient to reasonably satisfy the Director of Municipal Inspections that the privately owned utility pole has an existing grant of location. Utility poles that support existing wires and cables shall be deemed to have an existing grant of location for purposes of this chapter.

e. License(s) from the Federal Communications Commission evidencing applicant's authority to transmit and receive wireless telecommunications, unless such license is already on file with the city. Or if not a wireless telecommunications provider, an affidavit evidencing that you are an unlicensed wireless service and that you do not have or are not required to be licensed by the FCC to transmit and receive wireless telecommunications.

f. Proof of liability insurance including "completed operation" coverage or its substantial equivalent.

g. Radio Frequency (“RF”) Affidavit, signed by a professional radio frequency engineer, which includes a brief explanation of why the proposed small cell facility is needed to provide wireless service.

h. Radio Frequency Exposure (RFE) Affidavit signed by a professional Radio Frequency engineer demonstrating that the proposed small cell facility complies with the maximum permissible exposures adopted by the Federal Communications Commission.

i. The owner/wireless provider shall submit installation summary as-built plans to the Director of Municipal Inspections and the Fire Department’s Fire Prevention Officer, which shall include a plan showing installation locations of small cell facilities located within city of Revere boundaries. This plan shall include the Network Operation Center (NOC) emergency contact information (“NOC numbers”) for the applicant/provider. The submission shall also include a summary table of installation locations, which shall include but not be limited to, the small cell facility antenna information (site name), pole number, nearest street address, antenna description, operating frequency, FCC exposure limits at the antenna radome elevation, and height above grade. This information shall be submitted with each application or group of applications or upon request from the Fire Department as a permit condition to install small cell facilities in the city of Revere.

j. A fee equal to \$500.00 for a single application including up to five (5) locations and a fee of \$100.00 for each additional location, with a check payable to the City of Revere.

3. An additional permit, which shall be subject to the provisions of this chapter, shall be required for the replacement of a small cell facility with another small cell facility at a currently approved location. The fee for a replacement permit application is \$100.00, with a check payable to the city of Revere.

Additional permits shall not be required for general maintenance, repair, or modification of a previously permitted small cell facility.

E. Standard of review.

The Director of Municipal Inspections shall issue a permit to an applicant for the installation of a small cell facility within sixty (60) days of the submission of an application submitted pursuant to this chapter, said submission shall include review by

the Site Plan Review Committee as required in section 17.16.115(D)(2), if such applicant demonstrates the following:

1. The documents required in section 17.16.115(D)(3) have been completed and submitted, and the applicant has appeared before and presented the proposed small cell facility installation to the city of Revere Site Plan Review Committee as required in section 17.16.115(D)(2).
2. The small cell facility does not interfere with the safety and convenience of ordinary travel over the public right of way.
3. The small cell facility antenna shall be no lower than twenty six (26) feet or exceed sixty (60) feet in height above the ground surface. The small cell facility antenna shall not extend the height of the pole by more than six (6) feet.
4. The appearance of the small cell facility is similar to (a) the existing equipment on the utility pole or on other nearby utility poles, or (b) the color of the utility pole, or (c) another color reasonably requested by the Director of Municipal Inspections or his/her designee.
5. The total volume of the antenna installed on the pole shall not exceed three (3) cubic feet.
6. No part of the small cell facility equipment shall project sideways from the utility pole further than three (3) feet if installed twenty-six (26) feet or higher above the ground or further than two (2) feet if installed below twenty-six (26) feet above the ground.
7. No part of the small cell facility shall extend below eight (8) feet above the ground if equipped with an electric meter socket, or ten (10) feet above the ground without an electric meter socket.
8. A small cell facility has not already been installed on, or approved for installation on, the subject utility pole and no other small cell facility is installed on a utility pole within 180 feet of the subject utility pole.
9. The subject utility pole is installed plumb and true. The ground conditions around the pole do not indicate any movement of the pole and the area around the base of the pole is ADA compliant. The applicant may consider improving the conditions at the base of the pole and should provide such details as part of the professional engineer submission. Submissions for the installation on a double pole will not be considered unless the submission also addresses correction to the double poles including removing the compromised pole.

10. The proposed small cell facility complies with the maximum permissible exposures adopted by the FCC.

11. The proposed small cell facility shall not be installed at any location that is within ten (10) feet of any habitable structure or building including residential, municipal, schools and/or businesses, provided it meets FCC regulations.

12. The location of the disconnect/power kill switch to be used in case of emergency by the Revere Fire Department shall be located in accordance with section 17.16.115(D)(3)(b) and in section 17.16.115(E)(7). As part of the permit, training shall be provided to the fire department, including review of the operations manual, posted signage, and safety operations for the disconnect/power kill after completion of the installation and before final powering of the small cell facility.

13. No city tree(s) shall be pruned or removed to accommodate the installation of a small cell wireless facility in the public way.

14. Any requirement of this section may be reduced or waived by the Director of Municipal Inspections where the goals of this chapter or the interests of the city are better served thereby.

F. Effect of permit.

Upon issuance of a permit to install a small cell facility, or after the passage of sixty (60) days from filing/review by the Site Plan Review Committee with no action on the petition, a petitioner shall be authorized to commence installation subject to the requirements of this chapter after written notice to the Director of Municipal Inspections by the applicant.

Any proposed changes to the dimensions or specification detailed in the application shall require a new application.

G. Effect of denial; appeal.

In the event the Director of Municipal Inspections denies a petition to install a small cell facility, he/she shall provide a written explanation for the denial to the applicant within sixty (60) days following receipt of the application. Following issuance of such denial and explanation, the applicant may:

1. Submit a new application that satisfactorily addresses the reasons for denial, at which time the Director of Municipal Inspections shall consider the new petition pursuant to this section; or

2. Within thirty (30) days of issuance of such denial, the applicant may appeal the denial to the City Council. Upon receipt of an appeal under this section, the City Council shall consider the matter as a new application (i.e., de novo) at a publicly noticed hearing and allow the applicant to appear before the City Council to support the appeal, submit further evidence to rebut the written explanation provided by the Director of Municipal Inspections, and demonstrate that it has (a) satisfied the standard of review established in section 17.16.115(D); and (b) demonstrated that the relevant criteria contained in section 17.16.115(E) have been met. The City Council shall reach a final decision and act on any appeal within sixty (60) days. The applicant has the right of further appeal available under law.

H. Removal of small cell facilities.

1. Any small cell facility approved pursuant to this chapter shall be removed within ninety (90) days and the relevant permit terminated if the city requires the removal of the utility pole for a public purpose where the small cell facility is located.

2. The permit holder shall notify the city if the small cell facility ceases to be used for its intended purpose, and shall remove all the permitted equipment no later than thirty (30) days following cessation of use.

3. The Director of Municipal Inspections, or his/her designee, is authorized under this section to order the removal of any small cell facility installed on a utility pole that has not been authorized pursuant to this chapter. Any party installing any such small cell facility shall be subject to penalties consistent with any and all applicable Federal and Massachusetts State Laws and Codes, and city of Revere Ordinances, including Title 8 and Title 17, which includes the State Sanitary Code (105 CMR 410), State Fire Code (527 CMR 1.00), and State Building Code (780 CMR 100), said Building Code which incorporates therein the International Property Maintenance Code, any violations of which will be subject to the penalties set forth in chapters 1.12 and 1.16, and/or suspension or revocation of any city-issued permit or license.

I. Other requirements.

1. The rate for the installation of a small cell facility on a city-owned pole shall be \$270 per pole per year.

2. Non-emergency repairs shall be performed as follows: (a) at least forty-eight (48) hours advance notice shall be provided to the

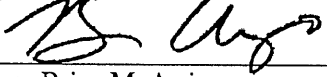
Superintendent of Public Works and the Police Department; (b) a police detail may be required; and (c) work shall be performed weekdays during hours designated by the Superintendent of Public Works.

3. Annually, before the end of February of each year, each permit holder shall submit to the Director of Municipal Inspections and the Fire Department the requirements outlined in section 17.16.115(D)(3)(i) if such documents haven't been submitted within the past year as part of a proposed installation application. These documents are used for emergency response information only and to limit exposure to responders and the general public should an issue arise with or near a small cell facility installation.

May 18, 2020	Ordered to a first reading.
June 8, 2020	Ordered to a second reading, as amended.
June 8, 2020	Ordered on a second reading, as amended.
June 8, 2020	Ordered on a third and final reading, as amended.

In City Council, June 8, 2020: ORDERED ENGROSSED AND ORDAINED on a Roll Call: Councillors Giannino, Guinasso, Morabito, Novoselsky, Powers, Visconti, Zambuto, and Council President Keefe voting "YES". Councillor Rotondo voting, "NO". Councillors McKenna and Serino voting, "PRESENT".
Attest: Ashley E. Melnik, City Clerk

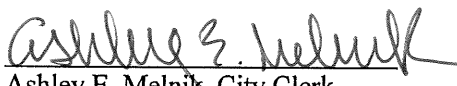
Approved by:



Mayor Brian M. Arrigo

6.15.2020
Date

Attest:



Ashley E. Melnik, City Clerk