

**Minutes for the Meeting of the
City of Dyersburg Municipal-Regional Planning Commission
April 13, 2017
10:00 am
Municipal Courtroom**

Commission Members Present: Mayor John Holden, Brian Ramm, Paul Newbill, and Sherry Guthrie.

Staff and Others Present: Will Radford, Planner/Consultant, Nelson Community Development Group, Tiffany Heard, Engineer, SSR., Scott Ball, Storm Water and Construction Inspection, John Lannom, Scott Haight, City Attorneys.

Vice-Chairman Newbill declared that a quorum was present and called the meeting to order. Vice-Chairman Newbill called for a motion to approve the minutes of the March 9, 2017 Commission meeting. The motion was made by Mayor John Holden with second by Commissioner Sherry Guthrie. The motion passed and the minutes were approved.

Chairman Burks called for any old business. No old business was presented.

New Business:

A. Text Amendment – An Ordinance amending regulations for Telecommunication Towers and Equipment

Mr. John Lannom present an *DRAFT* Ordinance amending our current Telecommunication Towers and Equipment Regulations by adding regulations for Small Cell Carriers that would be located within public right of ways.

Proposed Amended *DRAFT* Ordinance:

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE TEXT OF THE DYERSBURG MUNICIPAL ZONING
ORDINANCE BY AMENDING STANDARDS FOR TELECOMMUNICATION
STRUCTURES.

WHEREAS, Section 13-7-201 through 13-7-210 of the Tennessee Code Annotated empowered the City to enact the Dyersburg Municipal Zoning Ordinance and provide for its administration, enforcement; and

WHEREAS, the Board of Mayor and Alderman deems it necessary, for the purpose of promoting the health, safety, morals and general welfare of the City to amend said Ordinance; and

WHEREAS, there is a need to establish standards for location, aesthetics and compatibility for small cell communication structures and uses, and to update the standards for other kinds of telecommunications facilities; and

WHEREAS, there is a need to encourage the availability of affordable, high-speed internet and cellular telephone access for businesses and residents, acknowledging that a growing number of businesses are conducted in whole or in part from homes and/or on-the-go, that increasingly education incorporates on-line learning necessitating good home internet connections for students and faculty, and that government participation and emergency services to the general public are enhanced by fast and reliable cellular and home internet connectivity;

WHEREAS, it is important to encourage coordination between suppliers and providers of telecommunications services to maximize use of existing facilities and structures; and

WHEREAS, establishing predictable and balanced regulations within the authority reserved for local land use determination is in the interest of citizens of the City of Dyersburg; and

WHEREAS, there have been recent changes to the mandates of the Telecommunications Act of 1996, the Middle-Class Tax Relief and Job Creation Act of 2012, and other applicable federal and state laws limiting local discretion to regulate location of personal wireless service facilities (PWSF), and

WHEREAS, a mechanism for the zoning and permitting of small cell telecommunications uses and an update of existing zoning provisions for other kinds of telecommunications uses is in the best interest of the citizens of the City of Dyersburg.

WHEREAS, the Dyersburg Municipal-Regional Planning Commission has reviewed said proposed amendments and recommends such amendments to the Dyersburg Board of Mayor and Alderman; and

WHEREAS, the Board of Alderman has given due public notice of hearings on said amendments and has held public hearings; and

WHEREAS, all the requirements of Section 13-7-201 through 13-7-210 of Tennessee Code Annotated, with the regard to the amendment of a Municipal Zoning Ordinance by the Planning Commission and subsequent action of the Board of Mayor and Alderman have been met.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF DYERSBURG, TENNESSEE:

SECTION 1. The text of the Dyersburg Municipal Zoning Ordinance be revised by amending **ARTICLE III, DEFINITIONS** by adding the following definitions;

Cellular on Wheels (COW) means a temporary PWSF placed on property to provide short term, high volume telecommunications services to a specific location and which can be easily removed from the property.

Eligible support structure means any tower or base station existing at the time the application is filed with the City of Dyersburg. For purposes of this ordinance, the definition of “eligible support structure” shall include utility structures currently hosting fiber, cable and wire.

Pedestrian Travelway means the portion of a sidewalk or multi-use path intended to facilitate the unobstructed through movement of pedestrians and/or bicyclists.

Personal Wireless Service Facility (PWSF) means any staffed or unstaffed location for the transmission and/or reception of radio frequency signals or other personal wireless communications, including commercial mobile services, unlicensed wireless services, wireless broadband services, and common carrier wireless exchange access services as defined in the Telecommunications Act of 1996, and usually consisting of an antenna or group of antennas, transmission cables, feed lines, equipment cabinets or shelters, and may include a tower. Facilities may include new, replacement, or existing towers, replacement towers, collocation on existing towers, base station attached concealed and non-concealed antenna, dual purpose facilities, concealed towers, and non-concealed towers (monopoles, lattice and guyed), so long as those facilities are used in the provision of personal wireless services as that term is defined in the Telecommunications Act.

Small Cell Facility means a wireless service facility that either meets both of the following qualifications or is within a stealth design that is consistent with the design guidelines:

(a) each antenna is located inside an enclosure of no more than five (5) 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 enclosure of no more than five (5) cubic feet, however, the maximum dimensions of the antenna shall not exceed 36” in height and 16” in diameter; and

(b) primary equipment enclosures are no larger than seventeen (17) cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: Electric meter, concealment, telecommunications demarcation box, underground enclosures, back-up power systems, grounding equipment, power transfer switch, and cut-off switch.

Small Cell Network means a collection of interrelated small cell facilities designed to deliver wireless service.

Support Structure means anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground, including alternative structures, but excluding antennas.

Transmission Equipment means equipment that facilitates transmission of communication service (whether commercial, private, broadcast, microwave, public, public safety, licensed or unlicensed, fixed or wireless), including but not limited to radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply.

SECTION 2. That the Dyersburg Municipal Zoning Ordinance, ARTICLE XXIII, GENERAL PROVISIONS, EXCEPTIONS AND MODIFICATIONS, Section V, is hereby amended by adding the following new section;

17. Small Cell Facilities and Other Telecommunication Facilities with public rights of way.

(a) Support structures and above-ground transmission equipment are prohibited within the pedestrian travelway, but may be located within a grass strip/green zone or frontage zone. For substantial changes to eligible support structures or for new telecommunications use of an alternative structure, the eligible support structure or alternative structure shall be relocated outside of the pedestrian travelway and all above-ground utilities consolidated with the permit application. For eligible support structures that already have wireless telecommunications facilities on them, the structure need not be relocated unless it exceeds the zoning height limitation set in subsection _____, unless such structure is owned by the City of Dyersburg.

(b) No new telecommunication facility support structure may be erected in the public right-of-way within 500' of an existing telecommunication support structure. The term "new telecommunications facility support structure" as used in this subsection shall not include a relocation and/or replacement of a pole pursuant to section _____.

(c) New telecommunication facilities or relocated telecommunication facilities pursuant to subsection _____ shall place all transmission equipment, excluding antennas and remote radio units, underground to the extent possible consistent with departmental regulations. To the extent transmission equipment cannot be placed underground, business justification, excluding cost, for this must be provided.

(d) New telecommunication facility support structures may not be erected to a height greater than the height surrounding utility poles or street lights, whichever is greater. If no utility poles are present, the total height shall be built to a maximum height of 35', including antennas, lightning rods or other extensions. All new proposed structures, or a stealth telecommunications support structure replacing an existing support structure or alternative structure, within the ROW shall be designed for a minimum of two PWSF providers.

(e) A permit for a COW is limited to 5 days, but when circumstances reasonably warrant, the permit may be renewed.

(f) Telecommunication facilities shall be constructed consistent with the design requirements of the Planning Commission, and, where applicable, the Downtown Historical District. The design guidelines will provide greater detail, description and examples of acceptable

telecommunications facilities, including visual descriptions. The requirements in this section shall be in addition to those required by Article XXII, Section

V, Requirements for Telecommunication Towers Equipment, of the Dyersburg Municipal Code.

SECTION 3. BE IT FURTHER ORDAINED that this Ordinance shall become effective immediately upon its passage, THE PUBLIC WELFARE REQUIRING IT.

Background: Mr. Lannom discussed how the demand for more telecommunication data needs have significantly increased. Due to this need federal regulation allows for the installation of small cell technology. However, small cell equipment requires specific equipment and the telecommunication receivers must be placed in close proximity to one another in order to be efficient. It is recommended the receivers should not be more than 500 feet apart. The state agrees with this distance. Municipalities can set criteria for controlling the location and placement of small cell equipment devices.

Analysis: the city planner and the city attorney have worked together to update and propose a draft ordinance amendment to serve as the city's best method to allow for municipal control of the standards for small cell electronic structures within the city's right-of-way. Because small cell equipment providers are currently negotiating with Dyersburg Electric System for the placement of the equipment it is important for the city to adopt plan through ordinance that will serve in the best interest of the city in this endeavor.

Recommendation

Mr. Lannom and planning staff recommended approval of the draft proposal amendment to the ordinance with the understanding that more research is needed to finalize the ordinance amendment. They noted the main purpose for presentation at this meeting is to provide information to the commission. The ordinance will be refined for presentation to the commission in a final draft form at the May 2017 commission meeting.

On a motion by Commissioner Brian Ramm, with a second from Commissioner Sherry Guthrie, the commission voted to table the draft ordinance amendment to allow the city attorney and staff planners more time to complete their research and design of the amended ordinance. The motion was approved.

B. Any other new business that may be accepted by the Planning Commission.

None presented.

Other Business/Reports: No report.

Administrative Reports: No report.

The meeting adjourned at 10: 30 a.m.

Tony Dement, Secretary

Robert C. Jones, City Recorder