

# Wireless Telecommunications Zoning Ordinance & Comprehensive Plan Amendments

# Wireless Facilities in Fairfax Today

- 4G wireless infrastructure deployed over last decade
- Mobile carriers planning to implement 5G coverage
- 2018 Virginia General Assembly adopted wireless telecommunication infrastructure legislation
- Impacts of Sept. 2018 FCC Ruling
- County must decide how to amend regulations



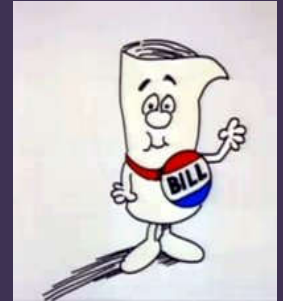
# 5G Deployment

- Driven by rapidly increasing mobile data usage, and the proliferation of connected devices
- Characteristics: increased bandwidth, lower latency, shorter signal range
- Shorter signal ranges require denser networks of small cell antennas



# House Bill 1258 & Senate Bill 405

(Effective 7/1/18)



- Administrative Review-Eligible Project (AREP): (1) new structure that is not more than 50' tall and meets other applicable criteria; or (2) the co-location on any existing structure of a wireless facility that is not a small cell
- Prohibits localities from requiring SE approval for AREPs, but allows localities to require administrative review of a zoning permit
- Projects that do not qualify as an AREP or small cell facility are standard process projects



## FCC Ruling (Effective 1/15/19)

- Defines small wireless facilities (SWF) as facilities mounted on **structures 50' or less in height, including antennas**
- Imposes new deadlines for processing SWF applications
- Aesthetic, minimum spacing, and undergrounding requirements must be: **(1) reasonable, (2) no more burdensome than requirements for other infrastructure deployments, and (3) objective & published in advance**
- Prohibits localities from implementing requirements that **materially inhibit** a wireless service provider from activities related to (1) filling a coverage gap, (2) increasing the density of a wireless network, (3) introduce new services, or (4) otherwise improving existing service
- Must adopt aesthetic requirements by **4/15/19**

# Historical Time Line



- **7/1/18** - State Code provisions become effective
- **7/31/18** - Board adopted a combined 2232/zoning permit for AREPs
- **7/31/18** - Board authorized Wireless Zoning Ordinance Amendment
- **9/28/18** - FCC Ruling
- **10/16/18** - Board withdrew ZO Amendment in response to FCC Ruling
- **10/16/19** - Board established \$6,200 Wireless Facility SE Application Fee
- **1/15/19** - FCC Ruling became effective
- **2/19/19** – Board authorized ZO & Policy Plan Amendment Advertisement

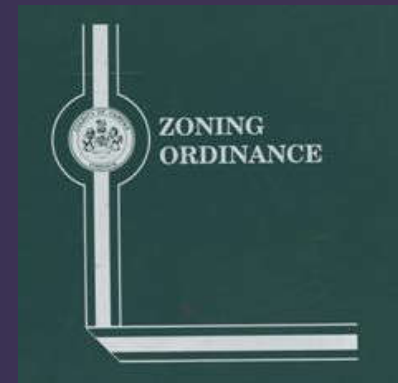
# Current Wireless Facility Processing

- **Sect. 6409 of the Spectrum Act:** Must approve any eligible facilities request for a modification of an existing wireless facility that does not substantially change the physical dimensions of such tower or base station
- **Small Cell:** Installation of a small cell facility on an existing structure – antennas  $\leq 6 \text{ ft}^3$  in volume & equipment  $\leq 28 \text{ ft}^3$  in volume
- **AREP/2232:** Co-location on existing structures & new structures up to 50' in height in public ROW or within an existing line of utility poles
- **Standard Process/2232:** Facilities not meeting the above, require SE

# Proposed Zoning Ordinance Amendment

## Option 1

Exempt all co-locations on existing structures, including small cells, from the Zoning Ordinance.





# Proposed Zoning Ordinance Amendment

## Option 1

### **BENEFITS**

- Reduced local regulatory burden (through deference to State and Federal guidelines).
- Decreased expenditure of local government.
- Decreased possibility of legal challenges.

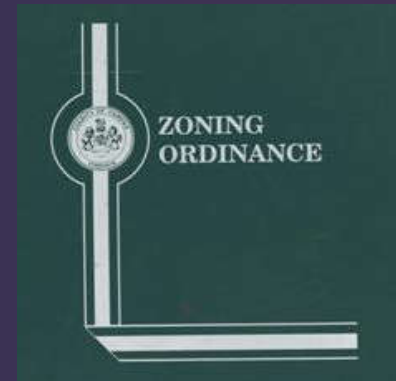
### **CHALLENGES**

- Eliminates the consideration of community impacts, including aesthetics.

# Proposed Zoning Ordinance Amendment

## Option 2

Exempt all new utilities and distribution poles (poles) and their associated facilities up to 50' in height from the Zoning Ordinance.



# Proposed Zoning Ordinance Amendment Option 2

## BENEFITS

- Reduced local regulatory burden (through deference to State and Federal guidelines).
- Decreased expenditure of local government.
- Decreased possibility of legal challenges.

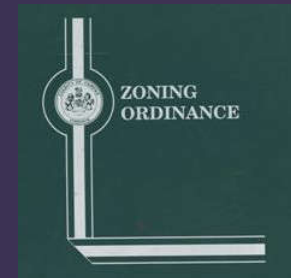
## CHALLENGES

- Eliminates the consideration of community impacts, including aesthetics.
- Possible proliferation of poles.

# Proposed Zoning Ordinance Amendment

## Option 3

- Exempt poles and their associated facilities up to 50' in height if located within the street ROW or a utility easement; EXCEPT
- Historic Districts/Private Property
  - Administrative Review: Any new pole and supporting structure up to 50' in height on private property or in a historic district will require an AREP permit, but in historic districts will also require ARB review with specific criteria; OR
  - Board Review: Any such new pole in historic districts or private property will require SE approval.



# Proposed Zoning Ordinance Amendment

## Option 3

### BENEFITS

- County only regulates poles outside of any street ROW or utility easement (otherwise deference to State and Federal guidelines).
- Clear standards for historic districts published in advance.
- Decreased expenditure of local government resources.
- Decreased possibility of legal challenge.

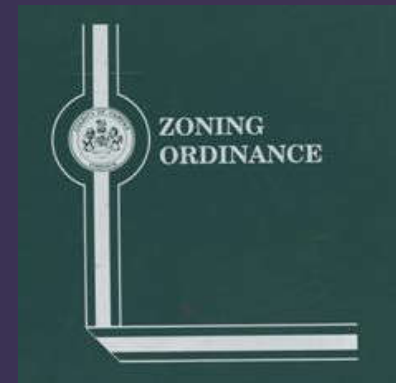
### CHALLENGES

- Short deadlines for review of poles in historic districts.
- Illusion of special exception approval authority, but legally constrained scope of review.
- Reduces consideration of community impacts, including aesthetics.

# Proposed Zoning Ordinance Amendment Option 4

Create standards for all new poles & their associated facilities and ground mounted equipment including:

- **Wires, cables, and equipment on poles:** new size and aesthetic regulations.
- **Ground-mounted Equipment** may have max. equipment size of 100–750 sq. ft. of GFA area & 8–12' in height.



# Proposed Zoning Ordinance Amendment

## Option 4 cont.

Create standards for all new poles and their associated facilities and ground mounted equipment including:

- **Minimum Spacing Options**

1. Minimum spacing between poles can be within 0–500', OR
2. Option not to adopt provision.

- **Undergrounding Options**

1. Zoning Administrator will/may disapprove all applications for poles/utility support structures in areas planned for undergrounding, OR
2. Option not to adopt provision.

- **Historic District Options**

1. Any new structure proposed in a historic district is subject to ARB review, OR
2. Option not to adopt provision.

# Proposed Zoning Ordinance Amendment

## Option 4

### BENEFITS

- Clear guidelines.
- Consideration of community interests, including aesthetics.
- Objective and inclusive standards, applicable to all similar infrastructure.
- Advance publication.

### CHALLENGES

- Unknown implications for structures that were not previously regulated.
- Unclear FCC Ruling regarding permissible restrictions.
- Increased expenditure of local government resources due to increased administration and processing.
- Increased pressure to meet required short deadlines for review.



# Comprehensive Plan Amendment - Justification

- Update Comprehensive Policy Plan to comply with recent FCC Ruling and State Code change.
- Harmonize with the proposed Zoning Ordinance Amendment.
- Under State Code, AREPs and Standard Process projects still require 2232 review.

# Existing Comprehensive Policy Plan

- **General Guidelines:** Broad objectives related to location, character and extent.
- **Feature Shown Guidelines:** Preferred characteristics, i.e. location and appearance.
- **Administrative Review Guidelines:** Most preferred characteristics.

# Comprehensive Plan Amendment

- Simplify Comprehensive Plan language while maintaining County priorities regarding the environment, aesthetics, public safety, and expanding need for wireless infrastructure.
- Harmonize with the Zoning Ordinance.
- Require all poles >50' require PC approval and public hearing (combined SE).

# Comp Plan Amendment – Poles $\leq$ 50' Options

## New Poles in Historic Districts and/or Outside ROW

1. Require PC review and public hearing.
2. FS review.
3. Automatically deemed FS, no PC review – admin review only.
4. No PC or admin review, automatically deemed FS.

## New Poles in ROW

1. FS review.
2. Automatically deemed FS, no PC review – admin review only.
3. No PC or admin review, automatically deemed FS.

# Comp Plan Amendment Co-Location Options

## Co-Locations on an Existing Structure

1. FS review.
2. Automatically deemed FS, no PC review – admin review only.
3. No PC or admin review, automatically deemed FS.

## Upcoming Time Line

- 3/20/19 - Planning Commission Public Hearing
- 4/9/19 - Board Public Hearing
- 4/15/19 - Localities Must adopt Aesthetic Requirements

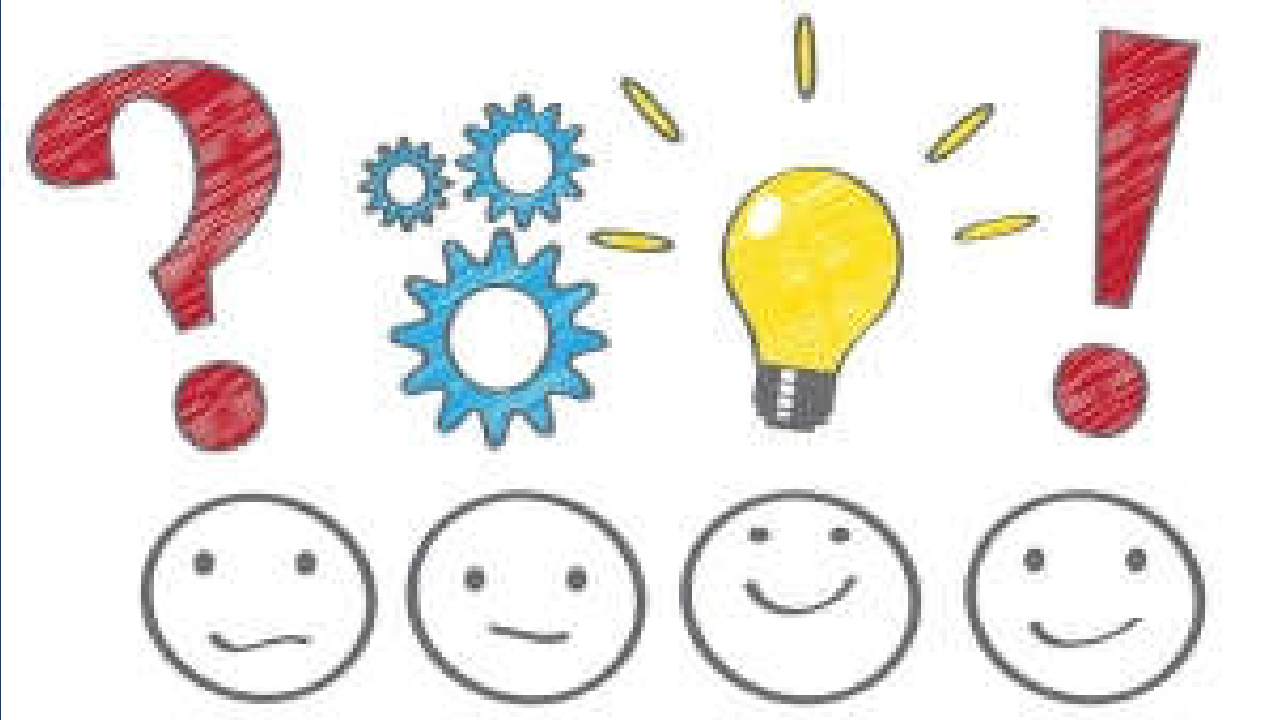




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Policy Plan Amendment – Bryan Botello at [bryan.Botello@fairfaxcounty.gov](mailto:bryan.Botello@fairfaxcounty.gov) or at 703-324-1380

<https://www.fairfaxcounty.gov/planning-zoning/zoning-ordinance/wireless-telecommunications-infrastructure>







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