



# Wireless Communications Infrastructure; Zoning-HB1258/SB405

## Recommendations

Laura S. Gori, Senior Assistant County Attorney &  
Lorrie Kirst, Deputy Zoning Administrator

July 17, 2018



# Amendments to Title 15.2

- 15.2-2316.3 — New Definitions
- 15.2-2316.4:1 — New Administrative Zoning Permit
- 15.2-2316.4:2 — Application Review Limitations
- 15.2-2316.4:3 — Replacement structures and limit on number

# Small Cell Facilities

The new legislation left last year's small cell law (15.2-2316.4) unchanged.



# 15.2-2316.3 — Administrative Review-Eligible Projects

## 1. **New Structure:** not more than 50 feet

(i) limit on height of structure with attached facilities relative to other poles in the same ROW or line of utility poles

(ii) not in a historic district.

(iii) designed to support small cell facilities

## 2. **Co-location** on an existing structure

# 15.2-2316.3 – Additional New Definitions

- New Structure
- Project
- Standard Process Project

**15.2-2316.4:1 —  
Option for new  
zoning permit**

No SE or Variance for  
Administrative  
Review-Eligible Project

Option for  
administrative review  
of a zoning permit

WA90XSF19C: After



# Fee Structure for zoning permits

## Administrative Review- Eligible Projects

- Reasonable Fee
- Provide cost basis upon request
- Limit: \$500

## Standard Process Project

- Reasonable Fee
- Provide cost basis upon request
- Limit: the actual direct costs to process the application, including permits and inspection

# Review Timing:

- Incomplete applications: Notice of deficiencies within 10 days
- Complete applications:
  - New structure: 150 days (or less per federal law)
  - Co-locations: 90 days (or less per federal law)
  - May extend by agreement

## Failure to Comply with Time Limits

- Deemed complete
- Deemed approved



# Disapproval Process

1. Written statement of reasons for disapproval
2. Identify modifications leading to approval
3. Supported by substantial record evidence & not unreasonably discriminate
4. Publicly release record within 30 days of decision

# New Limits on Application Reviews



# New limits on review

## Locality cannot disapprove because of

- Applicant's business decisions
- Need for project
- Technology selected

## Locality cannot require

- Proprietary or business info
- Removal of existing structures or facilities
- Surety to ensure removal of abandoned facilities

# Additional limits on reviews

1. No discrimination based on property ownership
2. No requirement that applicant purchase locality's services
3. Can't require approval because of co-location by locality
4. Can't impose larger setback/fall zone
5. Can't limit duration of approval

## Locality may not impose “unreasonable requirements” as to:

- Kinds of materials used
- Arranging, screening, or landscaping



# Locality may disapprove based on

- Local ordinance limiting height to 50 feet if ordinance doesn't discriminate.
- Application proposes to locate in an area encouraged for undergrounding if:
  1. Comp Plan objective pre-existed for 3 months;
  2. Co-location on existing structures in area still allowed;
  3. Replacement structures still allowed; and
  4. Disapproval doesn't unreasonably discriminate.

# Locality may

- Accept voluntary conditions that address visual or aesthetic effects.
- Disapprove Standard Process Project based on available wireless support structures within a reasonable distance
  - If co-location is an option and
  - Doesn't impose technical limits on applicant.

# 15.2-2316.4:3

A. No zoning approval needed for

i. Routine maintenance

ii. Replacement within 6-foot distance.

B. Locality may limit number of new structures or facilities in a specific location.

# Outreach

1. Planning Commission's Telecommunication Committee meeting on June 26;
2. Discussion with other jurisdictions
3. Meeting with industry representatives

# Interim Measures

- Continued 2232/Feature Shown Review
- Collaborated on guidelines to comply with new law
- Developing permit application & criteria
- Drafting zoning and Policy Plan text

# Recommendations:

1. Create Administrative Review Eligible-Project zoning permit
2. Authorize advertisement of a Zoning Ordinance amendment on July 31:
  - a. Incorporate new definitions
  - b. Revise Sect. 2-514
2. Authorize follow-on Policy Plan amendment