

Wireless Communications Infrastructure; Zoning-HB1258/SB405

Recommendations

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12

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





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

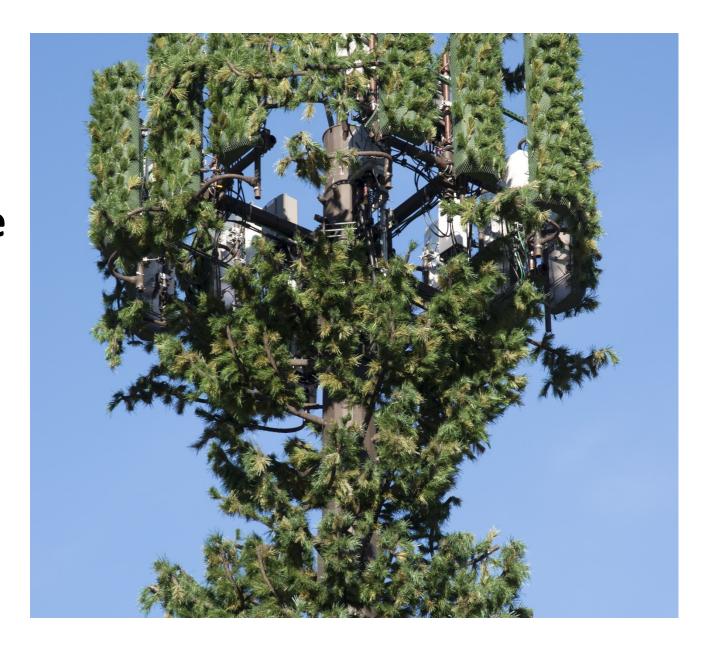
- Proprietary or business info
- Removal of existing structures or facilities
- Surety to ensure removal of abandoned facilities

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