



Town of Altavista Town Council Work Session Agenda

J.R. "Rudy" Burgess Town Hall
510 7th Street
Altavista, VA 24517

Tuesday, January 23, 2018

4:00 PM Parks & Trails Open House "Public Forum" Town Hall – Council Chambers

5:00 PM Council Work Session

1. Call to Order
2. Agenda Amendments/Approval
3. Public Comments –Agenda Items Only
4. Introductions and Special Presentations (1 hour 30 minutes)
 - a. FY2019 Budget Requests – Outside agencies and non-profits (*Attachment 2*) *pg. 2 -4*
 - b. Altavista Parks & Trails "Master Plan" Report – LPDA (*Attachment 3*) *pg. 5 - 11*
5. Items for Discussion
 - a. APD Proposal for staffing increase (*Attachment 4*) *pg. 12 - 14*
 - b. Dumpster Enclosure ordinance discussion (*Attachment 5*) *pg. 15 - 19*
 - c. Nuisance Ordinance discussion (*Attachment 6*) *pg. 20 - 47*
 - d. Wireless bills – VML Resolution (*Attachment 7*) *pg. 48 - 52*
6. Public Comments – Comments are limited to three (3) minutes per speaker.
7. Closed Session
8. Adjournment

NEXT SCHEDULED REGULAR TOWN COUNCIL MEETING: TUESDAY, FEBRUARY 13, 2018 @ 7:00 p.m.

Notice to comply with Americans with Disabilities Act: Special assistance is available for disabled persons addressing Town Council. Efforts will be made to provide adaptations or accommodations based on individual needs of qualified individuals with disability, provided that reasonable advance notification has been received by the Town Clerk's Office. For assistance, please contact the Town Clerk's Office, Town of Altavista, 510 Seventh Street, Altavista, VA 24517 or by calling (434) 369-5001.

Thank you for taking the time to participate in your Town Council meeting. The Mayor and Members of Council invite and



Town of Altavista, Virginia Work Session Agenda Form

Meeting Date: January 23, 2018

Agenda Item #: | 4a |

Attachment #: | 2 |

Agenda Placement: | Special Presentations |

Subject Title: FY2019 Budget Request Presentations – Outside/Non-Profit Agencies |

SUBJECT HIGHLIGHTS

During the budget process each year, Town Council invites outside agencies who are seeking funding from the Town to make a brief presentation on their request. The attached staff memorandum gives a quick overview of each request for FY2019 and the budgeted amount in FY2018 (current year). The full submittal by each agency has been forwarded to the Mayor and Councilmembers under separate cover.

The schedule of presentations:

- Altavista Area YMCA
- Altavista Area Chamber of Commerce
- Altavista On Track (AOT)
- Altavista Senior Center
- Avoca
- Small Business Development Center

Council Discussion/Staff recommendation, if applicable: Staff seeks direction from Council, if appropriate at this time, on whether these items should be included in the budget and at what level of funding.

Action(s) requested or suggested motion(s):

None requested at this time.

Exhibits

Are there exhibits for this agenda item? **YES**

List them in the order they should appear in packet: **Staff memo with attachment**



Date: January 19, 2018

To: Mayor Mattox and Members of Council

From: Tobie Shelton

Re: Community Agency Funding Request for FY 2019

Attached are funding requests from community agencies for Fiscal Year 2019 that covers the period July 1, 2018 through June 30, 2019. We encouraged a representative from each agency to attend the Work Session scheduled for Tuesday, January 23rd to answer any questions Council may have.

Also, attached is a summary sheet listing each agency, their FY 2019 funding request as well as the amount of FY 2018's request.

Please advise if there are any questions.

Thank you.

Town of Altavista
Summary of Agency Requests
FY 2019 Proposed Budget

<u>Agency</u>	<u>FY 2019 Amount of Request</u>	<u>FY 2018 Amount of Request</u>	<u>FY 2017 Audit Submitted</u>	<u>Notes</u>
Altavista Area YMCA	\$ 100,000.00	\$ 100,000.00	No	Will provide a copy of financial report when available
Altavista Chamber of Commerce	\$ 20,000.00	\$ 20,000.00	No	Will provide a copy of financial report when available
Altavista on Track	Total Request: \$10,000. \$5,000 for oranzizational expenses; \$5,000 for assistance with placing historic downtown brown signage on highway 29 at the VA43 exits on both northbound and southbound sides	Total Request: \$6,000, awarded \$7,000. \$5,000 for oranzizational expenses; \$1,000 for Anniversary Celebration; \$1,000 for signage from Virginia Main Street applying any remaining funding to highway signage	No	Will provide a copy of financial report when available
Altavista Senior Center	\$ 1,000.00	\$ 1,000.00	Yes	
Avoca	Total Request: \$63,100. \$18,700 for benefits; \$44,400 for repairs & maintenance.	Total Request: \$57,100. \$18,700 for benefits; \$38,400 for repairs & maintenance. Total request \$57,100	Yes	
Small Business Development Center	\$ 6,000.00	\$ 6,000.00	No	Will provide a copy of financial report when available



Town of Altavista, Virginia Work Session Agenda Form

Meeting Date: January 23, 2018

Agenda Item #: | **4b** |

Attachment #: | **3** |

Agenda Placement: | **Special Presentations** |

Subject Title: | **Altavista Parks & Trails Master Plan Presentation** |

SUBJECT HIGHLIGHTS

Land Planning Design Associates (LPDA) was hired to create a Master Plan for the Altavista Parks & Trails. The work is focusing primarily on the two larger town parks: English Park and Shreve Park and the development of a town-wide trail system. As you know the other “community” parks have been upgraded over the past ten years. LPDA’s initial draft of the Goals/Recommendations document associated with the Master Planning process is attached.

Earlier today, LPDA conducted their second Public Input Session to gather input from citizens and users of the town’s facilities. At this time LPDA will provide an update to Council in regard to their progress associated with the Master Planning process.

Council Discussion/Staff recommendation, if applicable: Staff seeks direction from Council, if appropriate at this time, on any input related to the development of the master plan.

Action(s) requested or suggested motion(s):

None requested at this time.

Exhibits

Are there exhibits for this agenda item? **YES**

List them in the order they should appear in packet: **Parks and Trails Goals and Recommendations Draft**

Additional support documents were sent out to Town Council due to the size of the files. These items will be available for viewing at the Public Input Meeting at 4:00 p.m. prior to the Town Council Work Session at 5:00 p.m.

Altavista Parks and Trails Master Plan

Recommendation Framework - Draft 1/18/18

Goal → the overall purpose and vision we are working toward

Strategy → the approach to meeting the goal

Recommendation → the action that implements the strategy

I. ENGLISH PARK

Goal 1 - Enhance English Park:

Strategy A: Improve Circulation in English Park

RECOMMENDATIONS:

1. Identify and correct all deficient ADA issues.
2. Clear the intersection of 3rd Street and Pittsylvania and add landscape and signage to create a formal park entrance. Add trees along 3rd street.
3. Standardize the semicircular-entry parking lot.
4. Standardize the boat trailer parking lot.
5. Standardize the parking at the playground to separate the travel-way from the playground.
6. Improve circulation and separate pedestrians from the roadway.
7. Correct the odd condition of the road splitting at the pier. (Part of VDOT Bridge Replacement)
8. Separate the pedestrian/bike trail from the roadway.

Strategy B: Update English Park's infrastructure and amenities.

RECOMMENDATIONS:

1. Add a pavilion to support a larger playground.
2. Renovate playground. (2018 CIP)
3. Add a dog park.
4. Add a splash pad.
5. Add a disc golf course (2018 CIP)
6. Update the park furniture with new benches and trash cans.
7. Renovate the restroom building, inside and out. (complete spring 2018)
8. Plant trees and add landscaping. Preference is for native vegetation for wildlife habitat.

9. Consider future ballfield improvements to finish the county field improvements. (Long term)
10. If constructing a water settlement pond, integrate it into the park as a feature. (Long term)

Goal 2 - Increase Connectivity to and through the Park:

Strategy A: Create Loop Trails in English Park

RECOMMENDATIONS:

1. Add a loop trail along the outside of the main park greenspace.
2. Add a loop trail around the partially complete ball fields on the west side.
3. Develop loop trails on the far west side of English Park to allow trail users more walking options and the ability to expand length (ties to lengthen trails recommendation)

Strategy B: Increase access to the riverfront in English Park

RECOMMENDATIONS:

1. Create a river overlook at the top of bank.
2. Add a low water canoe take out and fishing pier, something that can flood. Grade so that it is accessible.
3. Renovate the existing low water access at the boat ramp.
4. Undertake limited selective clearing as allowed by DEQ and DCR to allow for river views from the park.

Strategy C: Strengthen Connection between English Park and Town

RECOMMENDATIONS:

1. Renovate Broad Street from Main to the railroad track overpass, and from the overpass to the Booker Building to create a strong visual and physical connection and pleasant walking experience.
2. Create a wide pedestrian underpass along Pittsylvania that connects Downtown to English Park.
3. *Create trail connections to the neighborhoods on the west side of the park.*

II. SHREVE PARK

Goal 3 - Enhance Shreve Park:

Strategy A: Improve Circulation in Shreve Park

RECOMMENDATIONS:

1. Identify and correct all deficient ADA issues.
2. Standardize the parking lot.

Strategy B: Update Shreve Park's infrastructure and amenities.

RECOMMENDATIONS:

1. Renovate playground
2. Add a nature playground centered around the hill and the stream.
3. Add a splash pad (*1 total - consider location to "Y"??*)
4. Update the park furniture with new benches and trash cans.
5. Plant trees and add landscaping. Preference is for native vegetation for wildlife habitat.
6. Renovate the restroom building, inside and out. (completed winter 2017)
7. Restore the stream for water quality.
8. Build a bridge connection so that access is not through the stream.
9. Consider removing little league field from Shreve Park to open up more space and allow a proper outfield fence in War Memorial Park. Little league fields could be located on the improved ball field areas of English Park. (Long Term)

Goal 4- Increase Connectivity to the Park:

Strategy A: Strengthen connection to YMCA

RECOMMENDATIONS:

1. Better integrate the Y into the park so that it feels like one cohesive space. Add consistent landscape and reduce paving.
2. Create a strong connection between the Trade Lot and the "Y".
3. Plant trees and unify the streetscape between the main "Y" building and the pre-school/afterschool building.

Strategy B: Strengthen Shreve Park Connection to Downtown and Neighborhoods

RECOMMENDATIONS:

1. Create a trail through Shreve Park to link Downtown to the northern neighborhood.

2. Create a trail from the RR underpass along Pittsylvania to 7th Street and the entrance to Shreve Park.
3. Renovate 7th as a bike friendly corridor to link downtown and Shreve Park.

III. BOOKER BUILDING

Goal 5 – Adaptive Reuse of the Booker Building

Strategy A: New Use for the Booker Building

RECOMMENDATIONS:

1. Create a business plan, proforma, and marketing plan for the Booker Building.
2. Develop an architectural plan that will support the business plan (should be done in conjunction with the business plan)
3. Renovate the Booker Building to support the business plan.
4. Create an event space behind and joined with the Booker Building to support more activities. Do this in conjunction with the Booker Building renovations.
5. Either partner with or develop in house, the necessary staff and operations personnel to implement the business plan.

IV. CONNECTIVITY

Goal 6 – Improve Walking & Biking Connections

Strategy A: Develop a system of loop bikeways around the Town

RECOMMENDATIONS:

1. Develop a map and set of recommendations for connecting key destinations and allowing for loop biking circuits around the Town
2. Implement a series of low-cost restriping and signage programs that add bike lanes where feasible and install shared lane markings and signage where possible.

Strategy B: Improve walkability to key destinations and recreational opportunities.

RECOMMENDATIONS:

1. Complete the key sidewalk connections to link destinations.
2. Complete additional sidewalk connections as recommended in the VDOT Rural Long-Range Plan for the Town
3. Improve key intersections to enhance pedestrian safety at crosswalks

Strategy C: Improve Bicycle and Pedestrian Access Between English and Shreve parks.

RECOMMENDATIONS:

1. Plan and implement a multiuse trail along Pittsylvania Avenue to connect English Park to downtown and to Shreve Park.
2. Develop intersection improvement projects to ensure safe crossings of Seventh and Main Streets along Pittsylvania Avenue.

Goal 7 – Expand the Trail Network

Strategy A: Implement key trail connections

RECOMMENDATIONS:

1. Create a trails connection to Lane Access
2. Develop Lane Access Road east from Pittsylvania Ave. to the water treatment plant as a multi-use trail.
3. Develop the sewer easement east from Pittsylvania Avenue to the water treatment plant as a multi-use trail to create a loop.

4. Study options and routes for a trail from the sewer plan east to the town limits.
5. Add loop trails to English Park (*refer to English Park Goals*)



Town of Altavista, Virginia Work Session Agenda Form

Meeting Date: January 23, 2018

Agenda Item #: | **5a** |

Attachment #: | **4** |

Agenda Placement: | **Items for Discussion** |

Subject Title: | **Police Department Staffing (Investigator) Proposal** |

SUBJECT HIGHLIGHTS

For the past year, Chief Milnor has been assessing the operations and staffing of the police department. Originally we had planned on including any proposed staffing changes in the budget process, however Chief Milnor feels there are extenuating circumstances and would like to present the proposal for a new position, Investigator, at this time.

Chief will elaborate on his proposal and the need for the position at the Council's Work Session. As noted in the proposal a change in the positions grade is also being sought to bring it line with another lateral position in the organization. If Council would like to proceed with the evaluation of Chief's proposal, staff will need to identify funding for the position, especially if it is your intent to move forward prior to July 1st.

In addition, during the FY2019 Budget process it is Chief Milnor's intention to present a proposal to upgrade the position (Administrative Specialist) that is "shared" with Town Administration to a full-fledged police department administrative position. Over the past few years the existing position's responsibilities have become associated more heavily with the police department rather than the town administration. While the current position funding is 80% Administration and 20% Police; this does not reflect the evolving departmental work load. While this item will be further vetted during the budget process, staff wanted to inform Council of the pending "second" staffing request.

Council Discussion/Staff recommendation, if applicable: Staff seeks direction from Council on this item, if appropriate.

Action(s) requested or suggested motion(s):

None requested at this time.

Exhibits

Are there exhibits for this agenda item? **YES**

List them in the order they should appear in packet: **APD Staffing Proposal (Investigator position)**

Michael L. Milnor
Chief of Police



Phone: (434)369-7425

P.O. Box 420, 510 Seventh St. Altavista, Va. 24517

Fax: (434)369-5046

December 18, 2017

TO: Waverly Coggsdale, Town Manager
FROM: Mike Milnor, Chief of Police
SUBJECT: Request for Investigator Position

Since accepting the position as Chief of Police in 2016, I have been evaluating the needs and strengths of the Police Department. I have found consistently that the lack of an investigator position is a weakness that hinders the professionalism and ability of the department to deliver high quality investigative services to the community. I am therefore requesting the addition of a full-time Investigator to the ranks of the department.

The need for the investigator position can be seen in increase in calls for service that the police department has seen. Since 2013 there has been a 54% increase in the calls for service that the department has handled. The breakdown is as follows:

2017	453 Calls for service
2016	503 Calls for service
2015	411 Calls for service
2014	301 Calls for service
2013	245 Calls for service

During my tenure here as Chief, I have seen the need for the full-time investigator position in a number of instances. These range from a homicide in 2016 to a major embezzlement case to numerous burglaries, larcenies and child abuse investigations. The Investigator will oversee all major felony cases as well as oversight of the patrol officers cases and follow-ups. Currently there is no interaction between the Altavista Police Department and other agencies investigations bureaus. This networking is key to solving and preventing crimes. Criminals do not recognize jurisdictional lines or boundaries. There must be open and on-going networking between investigators and agencies. This position will allow for that constant interaction and communications and exchange of information and intelligence. No other law enforcement agencies the size of Altavista Police Department lack the position of a full-time investigator.

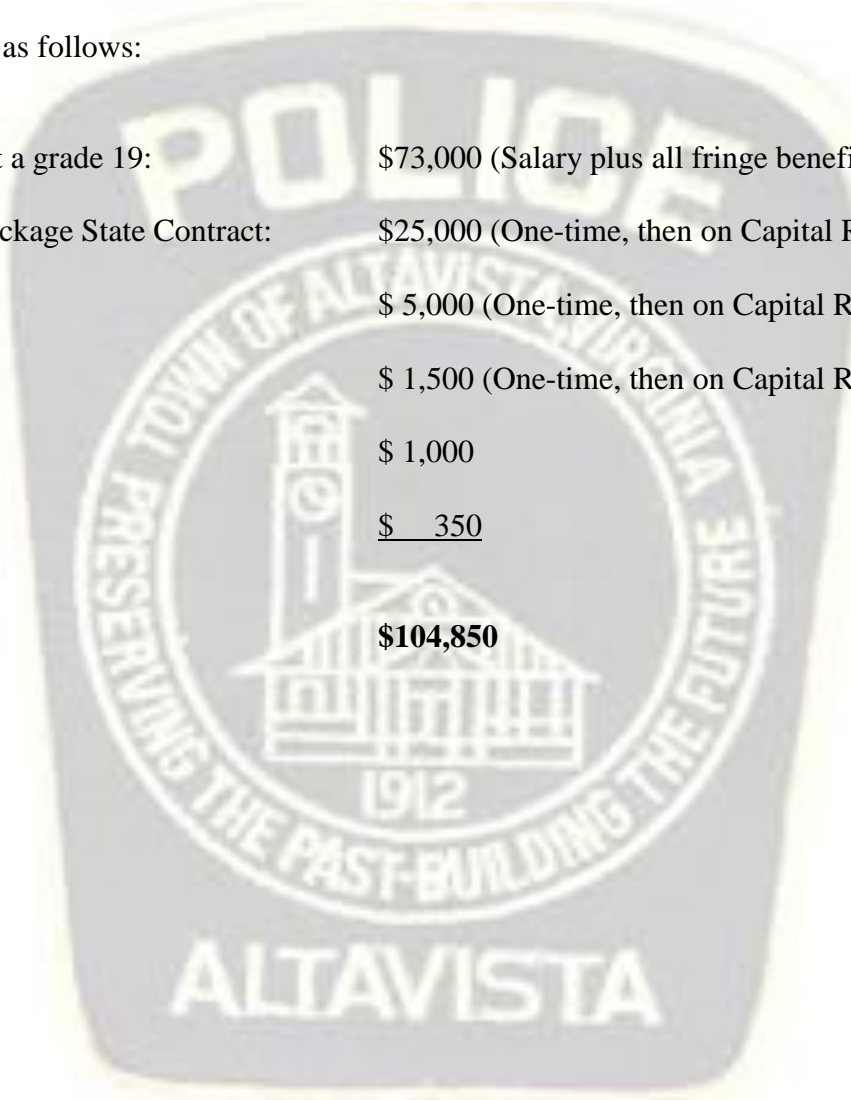
The investigator will also oversee all drug investigations, complaints and intelligence. Currently there is no focused drug investigations being conducted within the town limits. In spite of this we have seen an increase

from one arrest for drug violations in 2013, to 18 arrest in 2017. This is from patrol activity alone. These arrest have also included weapons violations as well. We know that Altavista is a central meeting point for narcotics dealers from both Danville and Lynchburg. This position will allow for coordination of investigations with the Central VA Drug Task Force as well as conducting drug investigations by the Altavista Police Department.

This equips the APD to be a truly full-service police agency for the citizens of the Town of Altavista which it serves.

I would request that the Investigator be re classified at the same grade as the first sergeant. This would be a grade 19 on the current pay scale.

The cost breakdown is as follows:



Investigator Position at a grade 19:	\$73,000 (Salary plus all fringe benefits)
Vehicle Non-Police Package State Contract:	\$25,000 (One-time, then on Capital Rotation)
Radio, Siren:	\$ 5,000 (One-time, then on Capital Rotation)
Weapons:	\$ 1,500 (One-time, then on Capital Rotation)
Uniform/Clothing:	\$ 1,000
Academy Cost:	\$ <u>350</u>
TOTAL COST:	\$104,850



Town of Altavista, Virginia Work Session Agenda Form

Meeting Date: January 23, 2018

Agenda Item #: | **5b** |

Attachment #: | **5** |

Agenda Placement: | Items for Discussion |

Subject Title: | Dumpster Enclosure ordinance discussion |

SUBJECT HIGHLIGHTS

Recently, Councilman Emerson asked that this item be placed on the Work Session agenda for discussion. Over the past month, the Town has received several complaints in regard to dumpster enclosures that appeared to not be in compliance with the Town Code. Staff has been reaching out to the property owners seeking compliance.

With the change to the way in which commercial solid waste was handled, Council adopted a dumpster enclosure ordinance in 2004 with an effective date of compliance of 2006. Following concerns from business owners, a Solid Waste Committee reviewed the existing ordinance and proposed amendments in early 2008. The current Dumpster Enclosure regulations are included in Sec. 62-43 “Commercial solid waste collection.” of the Town Code in subsections (4) – (9). These regulations were adopted by Town Council in September 2008. The Town also set aside funds in the budget to assist business owners with the construction of the enclosures.

Council Discussion/Staff recommendation, if applicable: Staff seeks direction from Council on this item, if appropriate.

Action(s) requested or suggested motion(s):

None requested at this time.

Exhibits

Are there exhibits for this agenda item? **YES**

List them in the order they should appear in packet: **Town Code (Sec. 62-43); and September 2008 Town Council minutes**

Sec. 62-43. Commercial solid waste collection.

(a) *Generally.* All businesses generating in excess of two cubic yards of solid waste per week, mobile home parks, and rental properties containing more than five rental units must use a private hauler to collect all solid waste, whether it be from a dumpster or can collection service. All dumpsters and other solid waste containers must be equipped with properly functioning lids and maintained so that no solid waste material can escape the dumpster or container. Dumpsters or solid waste containers are the property and responsibility of the private hauler but in the case that a dumpster or solid waste container is not in compliance with this section the business owner will be contacted. It will then be the responsibility of that owner to contact the hauler to have the dumpster or solid waste container repaired or replaced.

(b) *Dumpster standards.*

- (1) Dumpsters shall be placed in a location that is clearly accessible to the servicing vehicle.
- (2) Dumpsters shall be placed only on a concrete slab or asphalted area.
- (3) Lids must be operational and closed at all times.
- (4) All dumpsters shall be screened if and to the extent that, in the absence of screening, they would be clearly visible to:
 - a. Persons located within any dwelling unit on residential property; or,
 - b. Occupants, customers, or other invitees located within any building on nonresidential property other than where the dumpster is located; or,
 - c. Persons traveling on any public street, sidewalk or other public way.
 - d. All dumpsters regulated under this subsection (b)(4) which are in place upon the effective date of this section, shall be in compliance herewith, not later than June 1, 2008.
- (5) When dumpster screening is required under this section, screening shall be on three sides with a six-foot opaque screen of masonry, brick, stone or architectural block (that matches building's architecture), wood fencing, or other opaque materials approved by the zoning administrator. The fourth side shall be equipped with an opaque gate capable of being latched and of not less than six feet in height.
- (6) Dumpster enclosures shall not be located in front of the main building unless approved by the zoning administrator. Prior to beginning construction, a site plan for the enclosure must be submitted to the zoning administrator for review.
- (7) Dumpster enclosures shall be maintained in a structurally sound and attractive manner.
- (8) Within the central business district reasonable exceptions to the enclosure requirements may be granted if the zoning administrator's discretion, circumstances require such exemption.

(9) Any enclosure that is in existence at the time of the adoption of this ordinance may remain unless:

- a. It is determined by the zoning administrator that the enclosure is in such disrepair that it must be replaced; or,
- b. The owner chooses to replace the enclosure; or,
- c. The enclosure is damaged by any causality to an extent exceeding 50 percent of the structure.

In any such case, the enclosure must be replaced to meet the guidelines of this section.

(c) *Dumpster regulations by district.*

(1) Regulations shall apply to all residential and commercial districts as described in subsections 62-43 (a) and (b).

(2) Regulations shall only apply in industrial districts where uses are considered residential and/or commercial.

(Ord. of 5-11-2004, § 1; Ord. of 12-11-2007, § 1; Ord. of 9-9-2008, § 1)

Sec. 62-44. Burning leaves and brush.

(a) With the exception stated in subsection (b), it shall be unlawful to burn leaves and brush within the town limits at any time.

(b) Notwithstanding subsection (a), leaves and brush may be burned in connection with the clearing of land for residential, commercial or industrial development provided that the landowner has first obtained a permit from the town for said burning and provided that the landowner complies with all the requirements of the permit. All such burning shall be supervised by personnel of the Altavista Volunteer Fire Company, Inc. (hereinafter fire company) and landowner shall be responsible for and shall pay any cost involved in such supervision. Landowner shall comply with all directives of the fire company in connection with said burning. Failure to obtain a permit from the town prior to such burning and/or failure to comply strictly with requirements contained in said permit and/or failure to comply with the directives of the fire company during such burning shall constitute a violation of this section.

(c) Violation of this section shall constitute a class 4 misdemeanor.

(Ord. of 11-12-2002, § 1)

Secs. 62-45—62-80. Reserved.

REGULAR COUNCIL MEETING SEPTEMBER 9, 2008

- (2) The manufactured home dwelling shall have the tow assembly and wheels removed and be mounted on and anchored to a permanent foundation in accordance with the provisions of the Virginia Uniform Statewide Building Code (Code of Virginia, § 36-97 et seq.).
- (3) The manufactured home dwelling shall have a minimum width of 23 feet and its length shall be at least two times its width.
- (4) The manufactured home dwelling shall be covered with a nonreflective, exterior material customarily used on a site-built dwelling such as, but not limited to, lap siding, plywood, brick, stone, or stucco.
- (5) The manufactured home dwelling shall have a 2.5-inch in 12-inch minimum pitch roof. The roof shall be covered with nonreflective roof materials such as, but not limited to, fiberglass shingles, asphalt shingles or wood shakes.
- (6) The manufactured home dwelling site shall have a storage area enclosed on all sides, having at least 300 cubic feet and designed to store yard equipment and supplies. The storage area may be attached or detached from the principal structure but may not be located in front of such principal structure.
- (7) The manufactured home dwelling shall be declared a permanently affixed dwelling and taxed as real estate.

Sec. 86-455 Planting of shrubbery and trees on public right-of-way.

Within any zoning district in the town, shrubbery and/or trees may not be placed or maintained on or near the public right-of-way in such a way as to obscure the vision of vehicle operators while traveling upon the street or exiting from driveways.

3. Adopted this 9th day of September, 2008, by the Town Council of the Town of Altavista.

c. Solid Waste (Dumpster Enclosure) Ordinance

Mayor Burgess asked if the Solid Waste Ordinance had been properly advertised.

Mr. Coggsdale advised it had.

Mayor Burgess opened the public hearing at 7:19 p.m.

Mr. Witt advised there has been some confusion on the types of material to be used in construction of the dumpster enclosures along with the lockable gate wording. The Solid Waste Committee has met and is proposing the material that can be utilized for dumpster enclosures be amended as presented.

Mayor Burgess asked if anyone would like to speak in regards to the proposed amendments to the solid waste ordinance.

No one came forward.

Mayor Burgess closed the meeting at 7:21 p.m.

A motion was made by Mrs. Webb, seconded by Mr. Coleman, to adopt the ordinance text amendments related to Section 62-43 (b) (5) as presented.

Motion carried:

VOTE:	Mr. J.R. Burgess	Yes
	Mr. Ronald Coleman	Yes
	Mr. Bill Ferguson	Yes
	Mr. Michael Mattox	Yes
	Mrs. Rayetta Webb	Yes

An Ordinance to repeal, amend and re-ordain Section 62-43 in the Code of the Town of Altavista, 1968, relating to Commercial Solid Waste Collection.

Be it ordained by the Town Council of the Town of Altavista:

REGULAR COUNCIL MEETING SEPTEMBER 9, 2008

1. That Section 62-43 of the Code of the Town of Altavista, 1968, be repealed, amended and re-ordained as follows:

Sec. 62-43 Commercial solid waste collection.

(a) *Generally* All businesses generating in excess of 2 cubic yards of solid waste per week, mobile home parks, and rental properties containing more than five rental units must use a private hauler to collect all solid waste, whether it be from a dumpster or can collection service. All dumpsters and other solid waste containers must be equipped with properly functioning lids and maintained so that no solid waste material can escape the dumpster or container. Dumpsters or solid waste containers are the property and responsibility of the private hauler but in the case that a dumpster or solid waste container is not in compliance with this section the business owner will be contacted. It will then be the responsibility of that owner to contact the hauler to have the dumpster or solid waste container repaired or replaced.

(b) Dumpster standards.

- (1) Dumpsters shall be placed in a location that is clearly accessible to the servicing vehicle.
- (2) Dumpsters shall be placed only on a concrete slab or asphalted area.
- (3) Lids must be operational and closed at all times.
- (4) All dumpsters shall be screened if and to the extent that, in the absence of screening, they would be clearly visible to:
 - a. Persons located within any dwelling unit on residential property; or,
 - b. Occupants, customers, or other invitees located within any building on nonresidential property other than where the dumpster is located; or,
 - c. Persons traveling on any public street, sidewalk or other public way.
- d. All dumpsters regulated under this Section 62-43 (b)(4) which are in place upon the effective date of this ordinance, shall be in compliance herewith, not later than June 1, 2008.
- (5) When dumpster screening is required under this section, screening shall be on three sides with a 6-foot opaque screen of masonry, brick, stone or architectural block (that matches building's architecture), or wood fencing, or other opaque materials approved by the zoning administrator. The fourth side shall be equipped with an opaque lockable gate capable of being latched and of not less than 6-feet in height.
- (6) Dumpster enclosures shall not be located in front of the main building unless approved by the Zoning Administrator. Prior to beginning construction, a Site Plan for the enclosure must be submitted to the Zoning Administrator for review.
- (7) Dumpster enclosures shall be maintained in a structurally sound and attractive manner.
- (8) Within the Central Business District reasonable exceptions to the enclosure requirements may be granted if the Zoning Administrator's discretion, circumstances require such exemption.
- (9) Any enclosure that is in existence at the time of the adoption of this ordinance may remain unless:
 - a. It is determined by the Zoning Administrator that the enclosure is in such disrepair that it must be replaced; or,
 - b. The owner chooses to replace the enclosure; or,
 - c. The enclosure is damaged by any causality to an extent exceeding 50% of the structure.In any such case, the enclosure must be replaced to meet the guidelines of this section.

(c) Dumpster Regulations by District

- (1) Regulations shall apply to all residential and commercial districts as described in Section 62-43 (a) and (b)
- (2) Regulations shall only apply in industrial districts where uses are considered residential and/or commercial.

2. Adopted this 9th day of September, 2008, by the Town Council of the Town of Altavista.



Town of Altavista, Virginia Work Session Agenda Form

Meeting Date: January 23, 2018

Agenda Item #: | **5c** |

Attachment #: | **6** |

Agenda Placement: | **Items for Discussion** |

Subject Title: | **Nuisance Ordinance discussion** |

SUBJECT HIGHLIGHTS

Staff presented to Town Council a draft of new language related to the Town's Nuisance Ordinance (Chapter 34 "Environment") at their December 12, 2017 Regular Meeting. Town Council was asked to review the item and additional consideration would be given to the matter at the January 2018 Work Session.

The information provided to Council as part of the December 12, 2017 Regular Meeting agenda is attached and includes: Letter from John Eller, Town Attorney; Marked up copy of the ordinance showing changes and a clean copy of the draft.

Council Discussion/Staff recommendation, if applicable: Staff seeks direction from Council on this item., if appropriate.

Action(s) requested or suggested motion(s):

None requested at this time.

Exhibits

Are there exhibits for this agenda item? **YES**

List them in the order they should appear in packet: **Chapter 34 (marked up draft); Letter from Town Attorney; Chapter 34 (clean copy draft)**

LAW OFFICES OF
J. JOHNSON ELLER, JR.
P.O. BOX 209
ALTAVISTA, VIRGINIA 24517

TELEPHONE (434) 369-5661
FAX (434) 369-5663
ELLERLAW19@GMAIL.COM

December 7, 2017

Mr. J. Waverly Coggsdale, III, Town Manager
Mr. Dan Witt, Assistant Town Manager
Town of Altavista
P. O. Box 420
Altavista, VA 24517

Re: Revisions to nuisance ordinance

Dear Waverly and Dan:

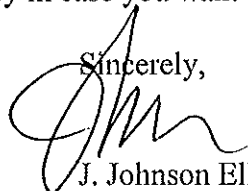
Attached is the latest version of the ordinance with the changes made at our meeting on December 4. I have marked it to show where the changes appear. Please note that new sections 34-31.2 and 34-31.3 are included in this package. They were in the original draft but somehow the package that we discussed Monday did not include them. If you think they need changes please let me know.

Also attached is a clean copy of all amendments and new sections including the changes made pursuant to our discussion Monday.

All proposed changes to the nuisance ordinances are indicated by lining out deleted language and underscoring new language. Waverly, you mentioned that new language should be in italics. I would like to continue to do it by underscoring because that is the way we have always done it and that is what Municode is used to seeing. Also, some of our headings are presented in italics, for example, the defined terms. I am afraid that also indicating changes in italics might cause confusion.

Back at the September 22 work session, I delivered to Council the first draft of the ordinance to give them an idea of what we were doing. I also included with the draft ordinance a copy of the old nuisance ordinance from Municode with notations as to what was done with each section. I am attaching the Municode copy in case you want to include it in the package.

Sincerely,



J. Johnson Eller, Jr.

10
Enclosure

12-7-17 DRAFT with notes
as to changes from 12-4 meeting

An Ordinance to repeal, amend and re-ordain Section 34-31 of the Code of the Town of Altavista, 1968, relating to definitions.

Be it ordained by the Town Council of the Town of Altavista:

1. That Section 34-31 of the Code of the Town of Altavista, 1968, be repealed, amended and re-ordained as follows:

Sec. 34-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal means every dog or other animal or fowl owned within the boundaries of the town.

Primary enclosure means any structure used to immediately restrict an animal to a limited amount of space, such as a room, pen, cage, compartment or hutch. For tethered animals, the term includes the shelter and the area within reach of the tether.

Public nuisance means: (1) Every activity or condition that endangers life or health, obstructs the reasonable and comfortable use of property, or gives offense to the senses so as to cause a positive and material disturbance or annoyance in the use or occupation of property.

(2) Any animal that:

- a. ~~Molests passersby or passing vehicles or interferes with traffic;~~
- b. ~~Attacks other animals;~~
- c. ~~Trespasses on school grounds and interferes with school activities;~~
- d. ~~Habitually turns over garbage cans of any person other than the owner or custodian thereof;~~
- e. ~~Damages private or public property; or~~
- f. ~~By loud, frequent or habitual crying, barking, howling or other noise causes disturbance of the peace and quiet of any person or neighborhood.~~

(3) Any aggregation of animals creating a foul odor.

Responsible party or parties includes, but is not limited to, the owner and/or occupier, and/or possessor of the premises where a public nuisance is located, the owner and/or possessor of any personal property, including animals, which constitutes a public nuisance, the owner or possessor of any material which constitutes a public nuisance which escaped, spilled, or was released and the owner or agent of the owner who was transporting or otherwise responsible for such material and whose acts or negligence caused such public nuisance.

Own and Owner Responsible party or parties of an animal means any person having a right of property in an animal and any person who keeps or harbors an animal or has it in his or her care, or who acts as its custodian, and any person who permits an animal to remain on or about any premises occupied by him or her.

"RESPONSIBLE
PARTY OR
PARTIES"
USED THROUGHOUT

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Stagnant water shall mean any water that is absent of flow or filtration by natural or mechanical means with the exception of bird baths, fish ponds, flower pots and other containers that are regularly tended by their responsible party or parties.

2. This Ordinance shall become effective immediately upon passage by the Town Council of the Town of Altavista.

An Ordinance to add a new Section 34-31.1 to the Code of the Town of Altavista, 1968, relating to specific conditions or activities constituting a public nuisance.

Be it ordained by the Town Council of the Town of Altavista:

1. That a new Section 34-31.1 be added to the Code of the Town of Altavista, 1968, as follows:

Sec. 34-31.1. Specific Conditions or Activities Constituting a Public Nuisance.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a public nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

A. Overgrown vegetation including grass, weeds, brush, or other plants which have reached a stage of growth so as to provide cover or harborage or potential cover or harborage for rats, mice, snakes or other vermin, or to cause a blighting problem, or adversely affect the public health and safety. Such growth between the property line and the street curbline shall also constitute a public nuisance. See also Section 62-151 of this Code.

B. Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things. Outside storage on any property of junk, trash, rubbish, garbage, refuse, litter, waste materials, tires, motor vehicle parts, wheels, metal scraps, plumbing fixtures, broken appliances or machines, and other objects or substances which might harbor rats, mice, snakes and other vermin, or which constitute a fire hazard or endanger the public health or safety. Trash or garbage which is placed within a trash can or bin shall not be deemed to be stored outside.

C. Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, is open and/or unsecured from entry or presents a fire hazard to the building itself and/or to other properties in the vicinity where it is located; or structures with exposed or faulty electrical wiring, broken windows, visible rotting or molding wood, faulty/rotten roofing or other materials, structures which are likely to collapse or fall over.

D. Vacant buildings. Any vacant or abandoned buildings that are not sealed so as to prevent the entry of persons or rats and other vermin.

E. Any building, structure or other place or location where any activity or condition, which is in violation of local, state or federal law, is conducted, performed or maintained.

F. Outside storage of abandoned or unused objects. Outside storage on a Residential Property of any offensive, unwholesome, unsanitary, or unhealthy item or substance, including but not limited to abandoned, unused, or discarded objects such as household furniture, appliances, equipment, mattresses, tools, lumber, building materials, and other objects that may cause a blighting problem. For the purpose of this subsection,

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A. (SECOND
SENTENCE OF
A. REMOVED)

ADDED

the term "Residential Property" shall mean a property zoned R-1 or R-2 or a property zoned C-1 or C-2 on which the principal use is a residence. Nothing contained herein shall prohibit storage of materials used in conjunction with a construction project for which a building permit has been issued and which is being diligently pursued.

G. All obnoxious odors and stench, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stench.

H. The carcasses of animals or fowl not disposed of immediately after the death of such animal or fowl. (See Town Code Sec. 62-42(c)(9) for provisions as to pick up by Town).

I. Any aggregation of animals creating a foul odor.

J. Any animal that:

1. Molests passersby or passing vehicles or interferes with traffic;

2. Attacks other animals;

3. Trespasses on school grounds and interferes with school activities;

4. Habitually turns over garbage cans of any person other than the owner or custodian thereof.

5. Damages private or public property; or

6. By loud, frequent or habitual crying, barking, howling or other noise causes disturbance of the peace and quiet of any person or neighborhood.

7. Dogs running at large in violation of Town Code Section 18-87.

K. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, industrial wastes or other substances.

L. Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.

M. Emission of dense smoke and/or noxious fumes, for a continuing period in excess of 30 minutes.

N. Artificial light. Any artificial light source, with the exception of standard "dusk to dawn" lights, maintained by a responsible party or parties in a direction or in such a high level of brightness as to place an unreasonable burden on adjoining property.

2. This Ordinance shall become effective immediately upon passage by the Town Council of the Town of Altavista.

An Ordinance to add a new Section 34-31.2 to the Code of the Town of Altavista, 1968, relating to public nuisances prohibited.

Be it ordained by the Town Council of the Town of Altavista:

1. That a new Section 34-31.2 be added to the Code of the Town of Altavista, 1968, as follows:

Sec. 34-31.2. Public Nuisances Prohibited.

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a public nuisance. Violations shall be subject to the provisions of Sections 34-34, 34-35, 34-37 and 34-38.

2. This Ordinance shall become effective immediately upon passage by the Town Council of the Town of Altavista.

An Ordinance to add a new Section 34-31.3 to the Code of the Town of Altavista, 1968, relating to animal enclosures to be kept clean.

Be it ordained by the Town Council of the Town of Altavista:

1. That a new Section 34-31.3 be added to the Code of the Town of Altavista, 1968, as follows:

Sec. 34-31.3. Animal enclosures to be kept clean.

The responsible party or parties of any animal kept in a primary enclosure as defined in Section 34-31 in the Town shall keep that enclosure properly cleaned meaning that carcasses, debris, food waste and excrement are removed from the primary enclosure with sufficient frequency to minimize the animals' contact with such contaminants; the primary enclosure is sanitized with sufficient frequency to minimize odors and the hazards of disease; and the primary enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with the stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants. Failure to do so shall constitute a violation of this ordinance and shall be subject to abatement as a public nuisance under the provisions in Sections 34-32, 34-34, 34-35, 34-37 and 34-38.

2. This Ordinance shall become effective immediately upon passage by the Town Council of the Town of Altavista.

An Ordinance to repeal, amend and re-ordain Section 34-32 of the Code of the Town of Altavista, 1968, relating to procedure.

Be it ordained by the Town Council of the Town of Altavista:

1. That Section 34-32 of the Code of the Town of Altavista, 1968, be repealed, amended and re-ordained as follows:

Sec. 34-32. Procedure.

- (a) Every public nuisance shall be abated by the ~~owner or occupant~~ responsible party or parties of the property from which the public nuisance emanates, at the expense of such ~~owner or occupant~~ responsible party or parties pursuant to the procedure set forth in this section.
- (b) Whenever an apparent public nuisance is found to exist within the town, the Town Manager or his/her agent shall provide written notice to the responsible party or parties of the property on which such apparent nuisance exists. Mailing of the notice to the responsible party or parties at the address upon which the apparent public nuisance is occurring or the address of the responsible party or parties according to the real property records of the town shall constitute compliance with the requirements of this ordinance. The written notice shall state:
 - (i) The location of the apparent public nuisance;
 - (ii) A description of what constitutes the apparent public nuisance;
 - (iii) A statement of acts necessary to abate or remove the apparent public nuisance;
 - (iv) A deadline reasonable under the circumstances by which the apparent public nuisance shall be abated or removed; and
 - (v) A statement that if the apparent public nuisance is not abated or removed by the deadline, or if the responsible party or parties disputes the existence of such public nuisance the Prior to declaring the activity or condition in question a public nuisance, such owner or occupant responsible party or parties shall be afforded reasonable notice and opportunity for a hearing before town council, which shall, if necessary, specially convene for this purpose.
- (c) If, after such hearing duly held before the town council, the council finds that the activity or condition complained of is in fact a public nuisance, the town council shall give the ~~owner or occupant~~ responsible party or parties a reasonable time to abate the public nuisance, taking into account the urgency of the need for abatement and the difficulty involved in abatement. Failure by the ~~owner~~ responsible party or parties to abate such public nuisance within the time limit shall constitute a violation of this article and shall be subject punishable as prescribed in section. to the provisions of Sections 34-34, 34-35, 34-37 and 34-38.

Upon the failure of the ~~owner~~ responsible party or parties ~~or occupant~~ to abate such public nuisance within the time limit as established by the council, the town manager or any duly authorized agent of the town may abate such public nuisance by whatever means are deemed reasonable and necessary by the town manager.

- (d) Immediate threats to public safety. Should any public nuisance be of such a nature as to pose an immediate threat to the health or safety of the public, such public nuisance shall be abated immediately by the ~~owner or occupant~~ responsible party or parties of the property from which such public nuisance emanates or arises. If such public nuisance is of such a serious and immediate nature as to pose an imminent threat to the health and safety of the community or any part thereof, ~~or should such public nuisance fall within the legal classification of a public nuisance per se, or a public nuisance in fact,~~ the town manager or other duly authorized agent of the town shall cause the town police to serve notice upon the ~~owner or occupant~~ responsible party or parties of the property from which the public nuisance emanates to abate such public nuisance within such period as the town manager deems expedient for public health and safety. If such ~~owner~~ responsible party or parties fails to abate such public nuisance, the town manager or duly authorized agent may take immediate and summary action to abate such public nuisance to the extent that the imminence and the seriousness of such public nuisance are reasonably reduced to a safe level. In this case, the right to notice and hearing to the ~~owner or occupant~~ responsible party or parties of property from which such public nuisance emanates ~~or arises~~ shall be afforded to such responsible party or parties ~~owner~~ as soon after such public nuisance is abated as is possible. The council shall at the hearing render a decision as to the permanent abatement of such public nuisance, and such decision shall be implemented and enforced in the same manner as set forth in subsection (c) of this section. See Sections 34-34, 34-35, 34-73 and 34-38.
- (e) Any decision of town council with regards to a public nuisance after such notice and hearing shall be subject to judicial review by the ~~county~~ Circuit Court of Campbell County upon appeal to such court.

2. This Ordinance shall become effective immediately upon passage by the Town Council of the Town of Altavista.

An Ordinance to repeal, amend and re-ordain Section 34-33 of the Code of the Town of Altavista, 1968, relating to animals.

Be it ordained by the Town Council of the Town of Altavista:

1. That Section 34-33 of the Code of the Town of Altavista, 1968, be repealed, amended and re-ordained as follows:

Sec. 34-33. Animals.

- (a) It shall be unlawful for any person to own an animal that is a public nuisance within the boundaries of the town. Any such public nuisance shall be abated by the ~~owner~~ responsible party or parties and shall be subject to the abatement procedures of this article.
- (b) If a public nuisance under this section disturbs any person, and the police department receives a complaint from such person, the department shall serve upon the ~~owner~~ responsible party or parties of the offending animal notice of the complaint and a copy of this article. Upon the receipt of the second and third complaints within a period of 60 days, the ~~owner~~ responsible party or parties shall be served with similar notices, the third notice stating that the offending animal appears to constitute a public nuisance and is subject to abatement procedures under sections 34-32, 34-34, 34-35, 34-37 and 34-38.
- (c) In addition to the provisions of subsections (a) and (b) of this section, any animal causing a disturbance or annoyance in any manner described, or any combination thereof, shall constitute an apparent public nuisance within the meaning of section ~~34-31(2), 34-31.1 J.~~ and subject to the abatement procedures under sections 34-32, 34-34, 34-35, 34-37 and 34-38, if no less than three persons familiar with such animal petition the town complaining about the animal causing the disturbance.
- (d) Any ~~owner~~ responsible party or parties of an animal so reported as being a public nuisance shall be subject to the procedure set forth in section 34-32, and, upon a finding by the town council that such animal constitutes a public nuisance, the council shall give the ~~owner~~ responsible party or parties of such animal a reasonable time to take such measures as may be reasonably necessary to abate such nuisance including, but not limited to, confining such animal or removing the animal beyond the town limits. Upon the failure of such ~~owner~~ responsible party or parties to comply with the abatement order of the council within the prescribed time, the town may confiscate the animal and dispose of it according to law. Failure by such ~~owner~~ responsible party or parties to comply with such order shall constitute a violation of this article and shall be enforced and punishable as prescribed in sections 34-34, 34-35, 34-37 and 34-38.

2. This Ordinance shall become effective immediately upon passage by the Town Council of the Town of Altavista.

An Ordinance to repeal, amend and re-ordain Section 34-34 of the Code of the Town of Altavista, 1968, relating to costs taxed.

Be it ordained by the Town Council of the Town of Altavista:

1. That Section 34-34 of the Code of the Town of Altavista, 1968, be repealed, amended and re-ordained as follows:

Sec. 34-34. – Costs of abatement taxed.

Where any public nuisance is abated by the town pursuant to the provisions of this article, the costs of such abatement shall be taxed against the ~~owner or occupant~~ responsible party or parties of the property from which such public nuisance emanates or arises and shall be collectible by the town in any manner provided by law for the collection of state and local taxes. Upon the completion of such abatement, the town manager shall send by certified mail to such ~~owner~~ responsible party or parties a bill for the costs of such abatement with the notation thereon that such charges are collectible by the town in any manner provided by law for the collection of state and local taxes, and that failure to pay such bill within 60 days of the date thereof will result in the institution of collection procedures. Upon the ~~owner's~~ responsible party's or parties' failure to pay such bill by the date set thereon, the town manager may, pursuant to law, institute such collection procedures as he or she may deem necessary.

(Code 1968, § 8-17)

2. This Ordinance shall become effective immediately upon passage by the Town Council of the Town of Altavista.

Sec. 34-35. – Abatement costs; town property.

Whenever any person or business causes a public nuisance to exist on property belonging to the town lying within or beyond the corporate limits of the town and the town abates such nuisance under this article, such person or business shall be taxed with the costs of such abatement as provided under section 34-34.

(Code 1968, § 8-18)

Sec. 34-36. – Liability imposed by other laws not decreased.

Nothing contained in this article shall be construed as making lawful any act or omission which is unlawful, or as decreasing the liability, civil or criminal, of any person, imposed by law.

(Code 1968, § 8-19)

An Ordinance to repeal, amend and re-ordain Section 34-34 of the Code of the Town of Altavista, 1968, relating to costs taxed.

Be it ordained by the Town Council of the Town of Altavista:

1. That Section 34-34 of the Code of the Town of Altavista, 1968, be repealed, amended and re-ordained as follows:

Sec. 34-37. – Enforcement by injunction.

Nothing contained in this article shall prevent the town from enforcing the terms of this article by means of injunction obtained in the county Circuit Court of Campbell County.

2. This Ordinance shall become effective immediately upon passage by the Town Council of the Town of Altavista.

An Ordinance to repeal, amend and re-ordain Section 34-38 of the Code of the Town of Altavista, 1968, relating to civil penalties.

Be it ordained by the Town Council of the Town of Altavista:

1. That Section 34-38 of the Code of the Town of Altavista, 1968, be repealed, amended and re-ordained as follows:

Sec. 34-38. Penalties for violation of article Civil penalties

~~Any person violating the provisions of this article shall be guilty of a Class 3 misdemeanor.~~

A. Each business day a public nuisance continues after the date set by the town council for its abatement constitutes a separate offense or violation. In addition to liability for the town's costs of abatement, responsible party or parties who fail to comply with a notice issued pursuant to this section requiring them to abate a nuisance shall be subject to civil penalties as follows:

- (1) \$50 for the first violation or violations arising from the same set of operative facts; or
- (2) \$200 for subsequent violations not arising from the same set of operative facts within 12 months of a first violation.

In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a twelve-month period.

B. Except as provided in this subsection, the imposition of civil penalties pursuant to subsection A. shall be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. In the event that three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period such violations shall be a Class 3 misdemeanor. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

2. This Ordinance shall become effective immediately upon passage by the Town Council of the Town of Altavista.

CLEAN COPY
12-7-17

An Ordinance to repeal, amend and re-ordain Section 34-31 of the Code of the Town of Altavista, 1968, relating to definitions.

Be it ordained by the Town Council of the Town of Altavista:

1. That Section 34-31 of the Code of the Town of Altavista, 1968, be repealed, amended and re-ordained as follows:

Sec. 34-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal means every dog or other animal or fowl owned within the boundaries of the town.

Primary enclosure means any structure used to immediately restrict an animal to a limited amount of space, such as a room, pen, cage, compartment or hutch. For tethered animals, the term includes the shelter and the area within reach of the tether.

Public nuisance means: (1) Every activity or condition that endangers life or health, obstructs the reasonable and comfortable use of property, or gives offense to the senses so as to cause a positive and material disturbance or annoyance in the use or occupation of property.

(2) ~~Any animal that:~~

- ~~a. Molests passersby or passing vehicles or interferes with traffic;~~
- ~~b. Attacks other animals;~~
- ~~c. Trespasses on school grounds and interferes with school activities;~~
- ~~d. Habitually turns over garbage cans of any person other than the owner or custodian thereof;~~
- ~~e. Damages private or public property; or~~
- ~~f. By loud, frequent or habitual crying, barking, howling or other noise causes disturbance of the peace and quiet of any person or neighborhood.~~

(3) ~~Any aggregation of animals creating a foul odor.~~

Responsible party or parties includes, but is not limited to, the owner and/or occupier, and/or possessor of the premises where a public nuisance is located, the owner and/or possessor of any personal property, including animals, which constitutes a public nuisance, the owner or possessor of any material which constitutes a public nuisance which escaped, spilled, or was released and the owner or agent of the owner who was transporting or otherwise responsible for such material and whose acts or negligence caused such public nuisance.

~~Own and Owner~~ Responsible party or parties of an animal means any person having a right of property in an animal and any person who keeps or harbors an animal or has it in his or her care, or who acts as its custodian, and any person who permits an animal to remain on or about any premises occupied by him or her.

Stagnant water shall mean any water that is absent of flow or filtration by natural or mechanical means with the exception of bird baths, fish ponds, flower pots and other containers that are regularly tended by their responsible party or parties.

2. This Ordinance shall become effective immediately upon passage by the Town Council of the Town of Altavista.

An Ordinance to add a new Section 34-31.1 to the Code of the Town of Altavista, 1968, relating to specific conditions or activities constituting a public nuisance.

Be it ordained by the Town Council of the Town of Altavista:

1. That a new Section 34-31.1 be added to the Code of the Town of Altavista, 1968, as follows:

Sec. 34-31.1. Specific Conditions or Activities Constituting a Public Nuisance.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a public nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

A. Overgrown vegetation including grass, weeds, brush, or other plants which have reached a stage of growth so as to provide cover or harborage or potential cover or harborage for rats, mice, snakes or other vermin, or to cause a blighting problem, or adversely affect the public health and safety. Such growth between the property line and the street curblin shall also constitute a public nuisance. See also Section 62-151 of this Code.

B. Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things. Outside storage on any property of junk, trash, rubbish, garbage, refuse, litter, waste materials, tires, motor vehicle parts, wheels, metal scraps, plumbing fixtures, broken appliances or machines, and other objects or substances which might harbor rats, mice, snakes and other vermin, or which constitute a fire hazard or endanger the public health or safety. Trash or garbage which is placed within a trash can or bin shall not be deemed to be stored outside.

C. Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, is open and/or unsecured from entry or presents a fire hazard to the building itself and/or to other properties in the vicinity where it is located; or structures with exposed or faulty electrical wiring, broken windows, visible rotting or molding wood, faulty/rotten roofing or other materials, structures which are likely to collapse or fall over.

D. Vacant buildings. Any vacant or abandoned buildings that are not sealed so as to prevent the entry of persons or rats and other vermin.

E. Any building, structure or other place or location where any activity or condition, which is in violation of local, state or federal law, is conducted, performed or maintained.

F. Outside storage of abandoned or unused objects. Outside storage on a Residential Property of any offensive, unwholesome, unsanitary, or unhealthy item or substance, including but not limited to abandoned, unused, or discarded objects such as household furniture, appliances, equipment, mattresses, tools, lumber, building materials, and other objects that may cause a blighting problem. For the purpose of this subsection,

the term "Residential Property" shall mean a property zoned R-1 or R-2 or a property zoned C-1 or C-2 on which the principal use is a residence. Nothing contained herein shall prohibit storage of materials used in conjunction with a construction project for which a building permit has been issued and which is being diligently pursued.

G. All obnoxious odors and stench, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stench.

H. The carcasses of animals or fowl not disposed of immediately after the death of such animal or fowl. (See Town Code Sec. 62-42(c)(9) for provisions as to pick up by Town).

I. Any aggregation of animals creating a foul odor.

J. Any animal that:

1. Molests passersby or passing vehicles or interferes with traffic;
2. Attacks other animals;
3. Trespasses on school grounds and interferes with school activities;
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5. Damages private or public property; or

6. By loud, frequent or habitual crying, barking, howling or other noise causes disturbance of the peace and quiet of any person or neighborhood.

7. Dogs running at large in violation of Town Code Section 18-87.

K. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, industrial wastes or other substances.

L. Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.

M. Emission of dense smoke and/or noxious fumes, for a continuing period in excess of 30 minutes.

N. Artificial light. Any artificial light source, with the exception of standard "dusk to dawn" lights, maintained by a responsible party or parties in a direction or in such a high level of brightness as to place an unreasonable burden on adjoining property.

2. This Ordinance shall become effective immediately upon passage by the Town Council of the Town of Altavista.

An Ordinance to add a new Section 34-31.2 to the Code of the Town of Altavista, 1968, relating to public nuisances prohibited.

Be it ordained by the Town Council of the Town of Altavista:

1. That a new Section 34-31.2 be added to the Code of the Town of Altavista, 1968, as follows:

Sec. 34-31.2. Public Nuisances Prohibited.

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a public nuisance. Violations shall be subject to the provisions of Sections 34-34, 34-35, 34-37 and 34-38.

2. This Ordinance shall become effective immediately upon passage by the Town Council of the Town of Altavista.

An Ordinance to add a new Section 34-31.3 to the Code of the Town of Altavista, 1968, relating to animal enclosures to be kept clean.

Be it ordained by the Town Council of the Town of Altavista:

1. That a new Section 34-31.3 be added to the Code of the Town of Altavista, 1968, as follows:

Sec. 34-31.3. Animal enclosures to be kept clean.

The responsible party or parties of any animal kept in a primary enclosure as defined in Section 34-31 in the Town shall keep that enclosure properly cleaned meaning that carcasses, debris, food waste and excrement are removed from the primary enclosure with sufficient frequency to minimize the animals' contact with such contaminants; the primary enclosure is sanitized with sufficient frequency to minimize odors and the hazards of disease; and the primary enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with the stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants. Failure to do so shall constitute a violation of this ordinance and shall be subject to abatement as a public nuisance under the provisions in Sections 34-32, 34-34, 34-35, 34-37 and 34-38.

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Be it ordained by the Town Council of the Town of Altavista:

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Sec. 34-32. Procedure.

- (a) Every public nuisance shall be abated by the ~~owner or occupant~~ responsible party or parties of the property from which the public nuisance emanates, at the expense of such ~~owner or occupant~~ responsible party or parties pursuant to the procedure set forth in this section.
- (b) Whenever an apparent public nuisance is found to exist within the town, the Town Manager or his/her agent shall provide written notice to the responsible party or parties of the property on which such apparent nuisance exists. Mailing of the notice to the responsible party or parties at the address upon which the apparent public nuisance is occurring or the address of the responsible party or parties according to the real property records of the town shall constitute compliance with the requirements of this ordinance. The written notice shall state:
 - (i) The location of the apparent public nuisance;
 - (ii) A description of what constitutes the apparent public nuisance;
 - (iii) A statement of acts necessary to abate or remove the apparent public nuisance;
 - (iv) A deadline reasonable under the circumstances by which the apparent public nuisance shall be abated or removed; and
 - (v) A statement that if the apparent public nuisance is not abated or removed by the deadline, or if the responsible party or parties disputes the existence of such public nuisance the Prior to declaring the activity or condition in question a public nuisance, such owner or occupant responsible party or parties shall be afforded reasonable notice and opportunity for a hearing before town council, which shall, if necessary, specially convene for this purpose.
- (c) If, after such hearing duly held before the town council, the council finds that the activity or condition complained of is in fact a public nuisance, the town council shall give the ~~owner or occupant~~ responsible party or parties a reasonable time to abate the public nuisance, taking into account the urgency of the need for abatement and the difficulty involved in abatement. Failure by the ~~owner~~ responsible party or parties to abate such public nuisance within the time limit shall constitute a violation of this article and shall be subject punishable as prescribed in section. to the provisions of Sections 34-34, 34-35, 34-37 and 34-38.

Upon the failure of the ~~owner~~ responsible party or parties ~~or occupant~~ to abate such public nuisance within the time limit as established by the council, the town manager or any duly authorized agent of the town may abate such public nuisance by whatever means are deemed reasonable and necessary by the town manager.

- (d) Immediate threats to public safety. Should any public nuisance be of such a nature as to pose an immediate threat to the health or safety of the public, such public nuisance shall be abated immediately by the ~~owner or occupant~~ responsible party or parties of the property from which such public nuisance emanates or arises. If such public nuisance is of such a serious and immediate nature as to pose an imminent threat to the health and safety of the community or any part thereof, ~~or should such public nuisance fall within the legal classification of a public nuisance per se, or a public nuisance in fact,~~ the town manager or other duly authorized agent of the town shall cause the town police to serve notice upon the ~~owner or occupant~~ responsible party or parties of the property from which the public nuisance emanates to abate such public nuisance within such period as the town manager deems expedient for public health and safety. If such ~~owner~~ responsible party or parties fails to abate such public nuisance, the town manager or duly authorized agent may take immediate and summary action to abate such public nuisance to the extent that the imminence and the seriousness of such public nuisance are reasonably reduced to a safe level. In this case, the right to notice and hearing to the ~~owner or occupant~~ responsible party or parties of property from which such public nuisance emanates ~~or arises~~ shall be afforded to such responsible party or parties ~~owner~~ as soon after such public nuisance is abated as is possible. The council shall at the hearing render a decision as to the permanent abatement of such public nuisance, and such decision shall be implemented and enforced in the same manner as set forth in subsection (c) of this section. See Sections 34-34, 34-35, 34-73 and 34-38.
- (e) Any decision of town council with regards to a public nuisance after such notice and hearing shall be subject to judicial review by the ~~county~~ Circuit Court of Campbell County upon appeal to such court.

2. This Ordinance shall become effective immediately upon passage by the Town Council of the Town of Altavista.

An Ordinance to repeal, amend and re-ordain Section 34-33 of the Code of the Town of Altavista, 1968, relating to animals.

Be it ordained by the Town Council of the Town of Altavista:

1. That Section 34-33 of the Code of the Town of Altavista, 1968, be repealed, amended and re-ordained as follows:

Sec. 34-33. Animals.

- (a) It shall be unlawful for any person to own an animal that is a public nuisance within the boundaries of the town. Any such public nuisance shall be abated by the ~~owner~~ responsible party or parties and shall be subject to the abatement procedures of this article.
- (b) If a public nuisance under this section disturbs any person, and the police department receives a complaint from such person, the department shall serve upon the ~~owner~~ responsible party or parties of the offending animal notice of the complaint and a copy of this article. Upon the receipt of the second and third complaints within a period of 60 days, the ~~owner~~ responsible party or parties shall be served with similar notices, the third notice stating that the offending animal appears to constitute a public nuisance and is subject to abatement procedures under sections 34-32, 34-34, 34-35, 34-37 and 34-38.
- (c) In addition to the provisions of subsections (a) and (b) of this section, any animal causing a disturbance or annoyance in any manner described, or any combination thereof, shall constitute an apparent public nuisance within the meaning of section 34-31(2), 34-31.1 J. and subject to the abatement procedures under sections 34-32, 34-34, 34-35, 34-37 and 34-38, if no less than three persons familiar with such animal petition the town complaining about the animal causing the disturbance.
- (d) Any ~~owner~~ responsible party or parties of an animal so reported as being a public nuisance shall be subject to the procedure set forth in section 34-32, and, upon a finding by the town council that such animal constitutes a public nuisance, the council shall give the ~~owner~~ responsible party or parties of such animal a reasonable time to take such measures as may be reasonably necessary to abate such nuisance including, but not limited to, confining such animal or removing the animal beyond the town limits. Upon the failure of such ~~owner~~ responsible party or parties to comply with the abatement order of the council within the prescribed time, the town may confiscate the animal and dispose of it according to law. Failure by such ~~owner~~ responsible party or parties to comply with such order shall constitute a violation of this article and shall be enforced and punishable as prescribed in sections 34-34, 34-35, 34-37 and 34-38.

2. This Ordinance shall become effective immediately upon passage by the Town Council of the Town of Altavista.

An Ordinance to repeal, amend and re-ordain Section 34-34 of the Code of the Town of Altavista, 1968, relating to costs taxed.

Be it ordained by the Town Council of the Town of Altavista:

1. That Section 34-34 of the Code of the Town of Altavista, 1968, be repealed, amended and re-ordained as follows:

Sec. 34-34. – Costs of abatement taxed.

Where any public nuisance is abated by the town pursuant to the provisions of this article, the costs of such abatement shall be taxed against the ~~owner or occupant~~ responsible party or parties of the property from which such public nuisance emanates or arises and shall be collectible by the town in any manner provided by law for the collection of state and local taxes. Upon the completion of such abatement, the town manager shall send by certified mail to such ~~owner~~ responsible party or parties a bill for the costs of such abatement with the notation thereon that such charges are collectible by the town in any manner provided by law for the collection of state and local taxes, and that failure to pay such bill within 60 days of the date thereof will result in the institution of collection procedures. Upon the ~~owner's~~ responsible party's or parties' failure to pay such bill by the date set thereon, the town manager may, pursuant to law, institute such collection procedures as he or she may deem necessary.

(Code 1968, § 8-17)

2. This Ordinance shall become effective immediately upon passage by the Town Council of the Town of Altavista.

Sec. 34-35. – Abatement costs; town property.

Whenever any person or business causes a public nuisance to exist on property belonging to the town lying within or beyond the corporate limits of the town and the town abates such nuisance under this article, such person or business shall be taxed with the costs of such abatement as provided under section 34-34.

(Code 1968, § 8-18)

Sec. 34-36. – Liability imposed by other laws not decreased.

Nothing contained in this article shall be construed as making lawful any act or omission which is unlawful, or as decreasing the liability, civil or criminal, of any person, imposed by law.

(Code 1968, § 8-19)

An Ordinance to repeal, amend and re-ordain Section 34-34 of the Code of the Town of Altavista, 1968, relating to costs taxed.

Be it ordained by the Town Council of the Town of Altavista:

1. That Section 34-34 of the Code of the Town of Altavista, 1968, be repealed, amended and re-ordained as follows:

Sec. 34-37. – Enforcement by injunction.

Nothing contained in this article shall prevent the town from enforcing the terms of this article by means of injunction obtained in the ~~county~~ Circuit Court of Campbell County.

2. This Ordinance shall become effective immediately upon passage by the Town Council of the Town of Altavista.

An Ordinance to repeal, amend and re-ordain Section 34-38 of the Code of the Town of Altavista, 1968, relating to civil penalties.

Be it ordained by the Town Council of the Town of Altavista:

1. That Section 34-38 of the Code of the Town of Altavista, 1968, be repealed, amended and re-ordained as follows:

Sec. 34-38. Penalties for violation of article Civil penalties

~~Any person violating the provisions of this article shall be guilty of a Class 3 misdemeanor.~~

A. Each business day a public nuisance continues after the date set by the town council for its abatement constitutes a separate offense or violation. In addition to liability for the town's costs of abatement, responsible party or parties who fail to comply with a notice issued pursuant to this section requiring them to abate a nuisance shall be subject to civil penalties as follows:

(1) \$50 for the first violation or violations arising from the same set of operative facts; or

(2) \$200 for subsequent violations not arising from the same set of operative facts within 12 months of a first violation.

In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a twelve-month period.

B. Except as provided in this subsection, the imposition of civil penalties pursuant to subsection A. shall be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. In the event that three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period such violations shall be a Class 3 misdemeanor. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

2. This Ordinance shall become effective immediately upon passage by the Town Council of the Town of Altavista.



Town of Altavista, Virginia Work Session Agenda Form

Meeting Date: January 23, 2018

Agenda Item #: | **5d** |

Attachment #: | **7** |

Agenda Placement: | **Items for Discussion** |

Subject Title: | **General Assembly bills – Wireless regulations – VML Request** |

SUBJECT HIGHLIGHTS

Per the attached email, VML is seeking local governments to oppose HB 1258 and SB 405 which are “promoted by the wireless industry and would eliminate most local control over the installation and operation on new structures and the replacement of current technology”. VML has provided a resolution for each local government to consider and they request adoption.

Council Discussion/Staff recommendation, if applicable: Per Council’s discussion

Action(s) requested or suggested motion(s):

Adoption of the resolution, if so inclined.

Exhibits

Are there exhibits for this agenda item? **YES**

List them in the order they should appear in packet: **VML Resolution; VML “Wireless Talking Points**

Wireless Resolution

Whereas, in the 2017 General Assembly Session localities worked with the telecommunications industry (“the industry”) to pass SB1282, which was a compromise bill providing a pathway to small cell telecommunications facilities to be located on existing structures; and

Whereas, VML and VACo and the industry agreed to discuss how to assist underserved areas after the session; and

Whereas, the industry officials did not engage in meaningful discussions regarding underserved areas and only wanted to discuss a further erosion of local land use authority regarding new structures; and

Whereas, 2018 legislation by the Industry (HB1258 and SB405) proposes to eliminate most local control over the installation and operation of new structures and the replacement of current technology; and

Whereas, this legislation mandates a ministerial process which eliminates the ability for local officials, residents and businesses to have meaningful input into decisions affecting the character of their own communities; and

Whereas, this legislation represents a shift in authority, moving decision-making authority from the community and local elected officials to for-profit corporations that install wireless equipment; and

Whereas, the wireless equipment installations can have significant health, safety and aesthetics impacts but those companies have little, if any, interest in taking into account those concerns that potentially conflict with their profit margins.

Now Therefore, Be it Further Resolved, that the (Council/Board) of the (City/Town/County of ____), Virginia directs the Clerk to send a copy of this resolution to the delegates and senators representing the (City/Town/County); Delegate Terry Kilgore and Senator Ryan McDougle, the Governor of the Commonwealth of Virginia and the Virginia Municipal League.



HB 1258 / SB405 “Wireless” Talking Points

[HB1258](#) (Kilgore) and [SB405](#) (McDougle) would eliminate most local control over the installation and operation of new wireless structures. The legislation removes the ability of local elected officials, residents and businesses to have input into decisions affecting the character of their own communities. The legislation is being promoted by the wireless industry.

Major changes that affect local authority are pointed out below.

Changes in Definitions

The bills add the terms (but not working definitions) of two types of wireless infrastructure projects: Administrative Review-Eligible Project and Standard Process Project.

“Administrative Review-Eligible Project” includes:

- All co-locations on any existing structure that is not a small cell facility
- Installation or construction of a new structure that is not more than 50 feet tall, if the structure is not more than 10 feet above the tallest existing utility pole located within 500 feet of a new structure, is not located in an historic district and is designed to support small cell facilities.

“Standard process project” is defined as any project other than an administrative review-eligible project.

Talking points:

- These are not standard zoning terms in Virginia. Working definitions either would have to be included in the bill or determined by litigation.
- The bills would treat the wireless industry differently from all other private profit-making industries, thus leaving localities (and the state) open to charges of discrimination against other industries.
- The likelihood is high that other industries will expect the same or similar treatment.
- Zoning decisions should be made based upon the best interests of the community. The health, safety and welfare of the citizens should outweigh the profitability of corporations.

Changes in the Zoning Process

The locality may not require a special exception, special use permit or variance for “Administrative Review-Eligible Projects.”

The locality must provide guidance on incomplete application within 10 days or application is “Deemed Approved” which takes a legislative decision away from local elected officials.

If application is disapproved, the locality:

- Must provide a written statement explaining the rejection of the application
- Explain any modifications in writing (this may be used by the applicant as evidence that the locality’s disapproval was arbitrary and capricious)

- May not discriminate between the applicant and other service providers
- Must explain the disapproval by a substantial record evidence contained in a written record publicly released within 30 days.

If the application is disapproved, the applicant has the right to appeal.

The locality cannot:

- Require proprietary, confidential or other business information from the applicant
- Condition approval on the removal of another structure
- Impose surety requirements that are not similar to other permits for similar development. Surety requirements are limited to the direct cost of the removal of the wireless facilities
- Discriminate on the basis of ownership
- Impose unreasonable screening
- Impose that the applicant use services owned by a particular company
- Require co-location
- Limit duration of approval
- Require services unrelated to be performed, including restoration work on some surfaces.

A locality may disapprove a standard process project if:

- Its proposed height is over 50 feet, if there is no discrimination between the applicant and other service providers
- All utility facilities are underground if:
 - Undergrounding requirement was in place 3 months prior to submission
 - Locality allows co-location on existing poles
 - Locality allows replacement of existing poles

HB 1258/SB405 set an aggressive timetable for approvals; If the timetable is not met, the project is "Deemed Approved". The timetable is:

- 150 days for a new structure
- 90 days or timelines as established by the FCC, whichever is shorter.

Talking Points:

- Local land use authority rests with locally elected officials who best know their communities and their citizens' needs.
- Local zoning takes into consideration that the economic, social, cultural, and other conditions are not one-size fits-all.
- Local zoning recognizes the importance of citizen input. The bills' provisions remove the ability of our citizens to have meaningful input into decisions affecting the character of their communities.
- The bills create a paradigm shift in authority, moving the decision-making process away from the community and its elected officials to FOR-PROFIT companies who care about their bottom line, not about our citizens' welfare.

- Specifically, the “Deemed Approved” language strikes down the legislative process. These bills take away the ability of a locality to ask questions of the applicant or negotiate with the industry about a specific location or type of equipment or screening.
- This is not the process for a typical zoning application and there is no compelling justification for this industry to be treated in a special manner.

FEES SET IN STATUTE

The legislation requires that the fee for Administrative Review Eligible Project shall not exceed \$500.

The fee for a Standard Process Project is set at “the actual direct costs to process the application...”

Talking points:

- Placing a fee in the Code is problematic because every time that there is a proposed change, legislation has to be enacted.
- The fees will never be in tune with actual costs. A state-determined fee does not account for the differences in workloads as well as the costs and availability of professional services costs that occur throughout the Commonwealth.
- Actual Direct Costs are not typically calculated by localities; this unfunded mandate would place an additional burden on local taxpayers who will end up subsidizing the applicants.
- The alternative is that the applications will be automatically approved because localities won’t have the resources to review the projects within the arbitrary deadlines.