

Telecommunications Act

The Telecommunications Act of 1996 established guidance for local municipalities to regulate telecommunications facilities. While the industry sought to exempt themselves from local regulation, the Act affirms the authority of local municipalities to regulate.

There are basically five conditions set forth in the act that affect local zoning authority:

1. "Local zoning requirements may not unreasonably discriminate among wireless telecommunications providers that compete against one another."
2. "Local zoning requirements may not prohibit or have the effect of prohibiting the provision of wireless telecommunications service."
3. "A local government must act within a reasonable period of time on requests for permission to place or construct wireless telecommunications facilities."
4. "Any city or county council or zoning board decision denying a request for permission to install or construct wireless telecommunications facilities must be in writing and must be based on evidence in a written record before the council or board."
5. "If a wireless telecommunications facility meets technical emissions standards set by the FCC, it is presumed safe. A local government may not deny a request to construct a facility on grounds that its radiofrequency emissions would be harmful to the environment or the health of residents if those emissions meet FCC standards."

Current Ordinance

The City's current ordinance was adopted in December 1997 and amended in September 2004. The Ordinance is designed to comply with the Telecommunications Act and address concerns over the construction of new transmission towers. The approach of this ordinance is to require separation between towers and encouraging co-location and alternative designs. The stealth design element is a key component of the ordinance that was designed to provide a creative alternative. The stealth design provisions allow companies a way to provide service in a low impact form where typical transmission towers would not be permitted.

WTF Considerations: In addition to the standard CUP guidelines (described below), the Commission shall consider the following additional factors when determining whether to recommend a CUP for a telecommunication facility:

- Height of the proposed tower, surrounding topography and tree coverage and foliage as they relate to: a. Skyline impact, examining whether the proportions of the structure appears to dominate or blend in with the surrounding environment and b. Shadow impact, whether or not the proposed tower will cast shadows that would prevent the reasonable use of enjoyment or surrounding properties.
- Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
- Proximity of the tower to residential structures and residential district boundaries.
- Economic impact on adjacent and nearby properties.
- Proposed ingress and egress.
- Availability of suitable alternatives and/or existing support structures.