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SENATE BILL NO. 841

Offered January 13, 2027

Prefiled October 8, 2026

A BILL to amend and reenact §§ 15.2-2204, 15.2-2208.1, 15.2-2285, 15.2-2301, 15.2-2303.4, 15.2-2310, and 15.2-2316.4:1 of the Code of Virginia, relating to data centers; public notice requirements; public hearings.

Patron—Jones

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2204, 15.2-2208.1, 15.2-2285, 15.2-2301, 15.2-2303.4, 15.2-2310, and 15.2-2316.4:1 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-2204. Advertisement of plans, ordinances, etc.; joint public hearings; written notice of certain amendments.

A. Plans or ordinances, or amendments thereof, recommended or adopted under the powers conferred by this chapter need not be advertised in full, but may be advertised by reference. Every such advertisement shall identify the place or places within the locality where copies of the proposed plans, ordinances or amendments may be examined.

The local planning commission shall not recommend nor the governing body adopt any plan, ordinance or amendment thereof until notice of intention to do so has been published twice in some newspaper published or having general circulation in the locality, with the first notice appearing no more than 28 days before and the second notice appearing no less than five days before the date of the meeting referenced in the notice; however, the notice for both the local planning commission and the governing body may be published concurrently. The notice shall specify the time and place of hearing at which persons affected may appear and present their views. The local planning commission and governing body may hold a joint public hearing after public notice as set forth in this subsection. If a joint hearing is held, then public notice as set forth in this subsection need be given only by the governing body. In any instance in which a locality has submitted a correct and timely notice request to such newspaper and the newspaper fails to publish the notice, or publishes the notice incorrectly, such locality shall be deemed to have met the notice requirements of this subsection so long as the notice was published in the next available edition of a newspaper having general circulation in the locality. After enactment of any plan, ordinance or amendment, further publication thereof shall not be required.

B. When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of 25 or fewer parcels of land, then, in addition to the advertising as required by subsection A, the advertisement shall include the street address or tax map parcel number of the parcels subject to the action. Written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner or owners, their agent or the occupant, of each parcel involved; to the owners, their agent or the occupant, of all abutting property and property immediately across the street or road from the property affected, including those parcels that lie in other localities of the Commonwealth; and, if any portion of the affected property is within a planned unit development, then to such incorporated property owner's associations within the planned unit development that have members owning property located within 2,000 feet of the affected property as may be required by the commission or its agent. However, when a proposed amendment to the zoning ordinance involves a tract of land not less than 500 acres owned by the Commonwealth or by the federal government, and when the proposed change affects only a portion of the larger tract, notice need be given only to the owners of those properties that are adjacent to the affected area of the larger tract. One notice sent by registered, certified, or first-class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that a representative of the local planning commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. If the hearing is continued, notice shall be remailed. Costs of any notice required under this chapter shall be taxed to the applicant.

When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25 parcels of land, or a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of any parcel of land, then, in addition to the advertising as required by subsection A, the advertisement shall include the street address or tax map parcel number of the parcels as well as the approximate acreage subject to the action. For more than 100 parcels of land, the advertisement may instead include a description of the boundaries of the area subject to the changes and a link to a map of

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SB841

the subject area. Written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner, owners, or their agent of each parcel of land involved, provided, however, that written notice of such changes to zoning ordinance text regulations shall not have to be mailed to the owner, owners, or their agent of lots shown on a subdivision plat approved and recorded pursuant to the provisions of Article 6 (§ 15.2-2240 et seq.) where such lots are less than 11,500 square feet. One notice sent by first-class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that a representative of the local planning commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this subsection shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure by the representative of the local planning commission to give written notice to the owner, owners, or their agent of any parcel involved.

The governing body may provide that, in the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of each individual unit owner.

Whenever the notices required hereby are sent by an agency, department, or division of the local governing body, or their representative, such notices may be sent by first-class mail; however, a representative of such agency, department, or division shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.

A party's actual notice of, or active participation in, the proceedings for which the written notice provided by this section is required shall waive the right of that party to challenge the validity of the proceeding due to failure of the party to receive the written notice required by this section.

C. When a proposed comprehensive plan or amendment thereto; a proposed change in zoning map classification; or an application for special exception for a change in use or to increase by greater than 50 percent of the bulk or height of an existing or proposed building, but not including renewals of previously approved special exceptions, involves any parcel of land located within one-half mile of a boundary of an adjoining locality of the Commonwealth, then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local planning commission, or its representative, at least 10 days before the hearing to the chief administrative officer, or his designee, of such adjoining locality.

D. When (i) a proposed comprehensive plan or amendment thereto, (ii) a proposed change in zoning map classification, or (iii) an application for special exception for a change in use involves any parcel of land located within 3,000 feet of a boundary of a military base, military installation, military airport, excluding armories operated by the Virginia National Guard, or licensed public-use airport then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local planning commission, or its representative, at least 30 days before the hearing to the commander of the military base, military installation, military airport, or owner of such public-use airport, and the notice shall advise the military commander or owner of such public-use airport of the opportunity to submit comments or recommendations.

E. *For any (i) proposed amendment of the zoning ordinance that involves a change in the zoning map classification of one or more parcels to an existing zoning map classification that permits the by-right development of a data center, as that term is defined in subdivision A 43 of § 58.1-3506; (ii) change to the applicable zoning ordinance text regulations that will permit the by-right development of any data center; or (iii) application for a special exception for a change in use to permit the by-right development of a data center, in addition to the advertising and written notification required by this section, the advertisement shall include (a) the applicant or developer's name as it appears on the applicable application; (b) the anticipated owner or end user of the development, if known; (c) the street address, tax map parcel numbers of the parcel or parcels, or a description of the boundaries of the area subject to the changes and a link to a map of the subject area; (d) the approximate acreage subject to the action; and (e) the expected utility infrastructure to be constructed in connection with the development, including electric, sewer, stormwater, and fuel lines, if known.*

F. The adoption or amendment prior to July 1, 1996, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise or give notice as may be required by such act or by this chapter, provided a public hearing was conducted by the governing body prior to such adoption or amendment. Every action contesting a decision of a locality based on a failure to advertise or give notice as may be required by this chapter shall be filed within 30 days of such decision with the circuit court having jurisdiction of the land affected by the decision. However, any litigation pending prior to July 1, 1996, shall not be affected by the 1996 amendment to this section.

~~F.~~ G. Notwithstanding any contrary provision of law, general or special, the City of Richmond may cause such notice to be published in any newspaper of general circulation in the city.

~~G.~~ H. When a proposed comprehensive plan or amendment of an existing plan designates or alters previously designated corridors or routes for electric transmission lines of 150 kilovolts or more, written

notice shall also be given by the local planning commission, or its representative, at least 10 days before the hearing to each electric utility with a certificated service territory that includes all or any part of such designated electric transmission corridors or routes.

H. I. When any applicant requesting a written order, requirement, decision, or determination from the zoning administrator, other administrative officer, or a board of zoning appeals that is subject to the appeal provisions contained in § 15.2-2311 or 15.2-2314, is not the owner or the agent of the owner of the real property subject to the written order, requirement, decision or determination, written notice shall be given to the owner of the property within 10 days of the receipt of such request. Such written notice shall be given by the zoning administrator or other administrative officer or, at the direction of the administrator or officer, the requesting applicant shall be required to give the owner such notice and to provide satisfactory evidence to the zoning administrator or other administrative officer that the notice has been given. Written notice mailed to the owner at the last known address of the owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall satisfy the notice requirements of this subsection.

This subsection shall not apply to inquiries from the governing body, planning commission, or employees of the locality made in the normal course of business.

§ 15.2-2208.1. Damages for unconstitutional grant or denial by locality of certain permits and approvals.

A. Notwithstanding any other provision of law, general or special, any applicant aggrieved by the grant or denial by a locality of any approval or permit, however described or delineated, including a special exception, special use permit, conditional use permit, rezoning, site plan, plan of development, and subdivision plan, where such grant included, or denial was based upon, an unconstitutional condition pursuant to the United States Constitution or the Constitution of Virginia, shall be entitled to an award of compensatory damages and to an order remanding the matter to the locality with a direction to grant or issue such permits or approvals without the unconstitutional condition and may be entitled to reasonable attorney fees and court costs.

B. In any proceeding, once an unconstitutional condition has been proven by the aggrieved applicant to have been a factor in the grant or denial of the approval or permit, the court shall presume, absent clear and convincing evidence to the contrary, that such applicant's acceptance of or refusal to accept the unconstitutional condition was the controlling basis for such impermissible grant or denial provided only that the applicant objected to the condition in writing prior to such grant or denial.

C. Any action brought pursuant to this section shall be filed with the circuit court having jurisdiction of the land affected or the greater part thereof, and the court shall hear and determine the case as soon as practical, provided that such action is filed within the time limit set forth in subsection C or D of § 15.2-2259, subsection D or E of § 15.2-2260, or subsection F G of § 15.2-2285, as may be applicable.

§ 15.2-2285. Preparation and adoption of zoning ordinance and map and amendments thereto; appeal.

A. The planning commission of each locality may, and at the direction of the governing body shall, prepare a proposed zoning ordinance including a map or maps showing the division of the territory into districts and a text setting forth the regulations applying in each district. The commission shall hold at least one public hearing on a proposed ordinance or any amendment of an ordinance, after notice as required by § 15.2-2204, and may make appropriate changes in the proposed ordinance or amendment as a result of the hearing. Upon the completion of its work, the commission shall present the proposed ordinance or amendment including the district maps to the governing body together with its recommendations and appropriate explanatory materials.

B. No zoning ordinance shall be amended or reenacted unless the governing body has referred the proposed amendment or reenactment to the local planning commission for its recommendations. Failure of the commission to report 100 days after the first meeting of the commission after the proposed amendment or reenactment has been referred to the commission, or such shorter period as may be prescribed by the governing body, shall be deemed approval, unless the proposed amendment or reenactment has been withdrawn by the applicant prior to the expiration of the time period. The governing body shall hold at least one public hearing on a proposed reduction of the commission's review period. The governing body shall publish a notice of the public hearing in a newspaper having general circulation in the locality at least two weeks prior to the public hearing date and shall also publish the notice on the locality's website, if one exists. In the event of and upon such withdrawal, processing of the proposed amendment or reenactment shall cease without further action as otherwise would be required by this subsection.

C. Before approving and adopting any zoning ordinance or amendment thereof, the governing body shall hold at least one public hearing thereon, pursuant to public notice as required by § 15.2-2204, after which the governing body may make appropriate changes or corrections in the ordinance or proposed amendment. However, no land may be zoned to a more intensive use classification than was contained in the documentation made available for examination pursuant to subsection A of § 15.2-2204 without an additional public hearing after notice required by § 15.2-2204. Zoning ordinances shall be enacted in the same manner as all other ordinances.

D. Notwithstanding the requirements of subsection C, before approving and adopting any zoning ordinance or amendment thereof that involves a change in the zoning map classification of one or more parcels to an existing zoning map classification that permits the by-right development of a data center, as that term is defined in subdivision A 43 of § 58.1-3506, or a change to the applicable zoning ordinance text regulations that will permit the by-right development of any data center, the governing body shall hold at least two public hearings thereon, pursuant to public notice as required by § 15.2-2204, after which the governing body may make appropriate changes or corrections in the ordinance or proposed amendment. However, no land may be zoned to a more intensive use classification than was contained in the documentation made available for examination pursuant to subsection A of § 15.2-2204 without an additional public hearing after notice required by § 15.2-2204.

E. Any county which has adopted an urban county executive form of government provided for under Chapter 8 (§ 15.2-800 et seq.) may provide by ordinance for use of plans, profiles, elevations, and other such demonstrative materials in the presentation of requests for amendments to the zoning ordinance.

~~E.~~ F. The adoption or amendment prior to March 1, 1968, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise, give notice or conduct more than one public hearing as may be required by such act or by this chapter, provided a public hearing was conducted by the governing body prior to the adoption or amendment.

~~F.~~ G. Every action contesting a decision of the local governing body adopting or failing to adopt a proposed zoning ordinance or amendment thereto or granting or failing to grant a special exception shall be filed within 30 days of the decision with the circuit court having jurisdiction of the land affected by the decision. Such 30-day filing requirement shall be mandatory and jurisdictional. However, nothing in this subsection shall be construed to create any new right to contest the action of a local governing body.

§ 15.2-2301. Same; petition for review of decision.

Any zoning applicant or any other person who is aggrieved by a decision of the zoning administrator made pursuant to the provisions of § 15.2-2299 may petition the governing body for review of the decision of the zoning administrator. All petitions for review shall be filed with the zoning administrator and with the clerk of the governing body within 30 days from the date of the decision for which review is sought and shall specify the grounds upon which the petitioner is aggrieved. A decision by the governing body on an appeal taken pursuant to this section shall be binding upon the owner of the property which is the subject of such appeal only if the owner of such property has been provided written notice of the zoning violation, written determination, or other appealable decision.

An aggrieved party may petition the circuit court for review of the decision of the governing body on an appeal taken pursuant to this section. The provisions of subsection ~~F~~ G of § 15.2-2285 shall apply to such petitions to the circuit court, mutatis mutandis.

§ 15.2-2303.4. Provisions applicable to certain conditional rezoning proffers.

A. For purposes of this section, unless the context requires a different meaning:

"New residential development" means any construction or building expansion on residentially zoned property, including a residential component of a mixed-use development, that results in either one or more additional residential dwelling units or, otherwise, fewer residential dwelling units, beyond what may be permitted by right under the then-existing zoning of the property, when such new residential development requires a rezoning or proffer condition amendment.

"New residential use" means any use of residentially zoned property that requires a rezoning or that requires a proffer condition amendment to allow for new residential development.

"Offsite proffer" means a proffer addressing an impact outside the boundaries of the property to be developed and shall include all cash proffers.

"Onsite proffer" means a proffer addressing an impact within the boundaries of the property to be developed and shall not include any cash proffers.

"Proffer condition amendment" means an amendment to an existing proffer statement applicable to a property or properties.

"Public facilities" means public transportation facilities, public safety facilities, public school facilities, or public parks.

"Public facility improvement" means an offsite public transportation facility improvement, a public safety facility improvement, a public school facility improvement, or an improvement to or construction of a public park. No public facility improvement shall include any operating expense of an existing public facility, such as ordinary maintenance or repair, or any capital improvement to an existing public facility, such as a renovation or technology upgrade, that does not expand the capacity of such facility. For purposes of this section, the term "public park" shall include playgrounds and other recreational facilities.

"Public safety facility improvement" means construction of new law-enforcement, fire, emergency medical, and rescue facilities or expansion of existing public safety facilities, to include all buildings, structures, parking, and other costs directly related thereto.

"Public school facility improvement" means construction of new primary and secondary public schools or expansion of existing primary and secondary public schools, to include all buildings, structures, parking, and

other costs directly related thereto.

"Public transportation facility improvement" means (i) construction of new roads; (ii) improvement or expansion of existing roads and related appurtenances as required by applicable standards of the Virginia Department of Transportation, or the applicable standards of a locality; and (iii) construction, improvement, or expansion of buildings, structures, parking, and other facilities directly related to transit.

"Residentially zoned property" means property zoned or proposed to be zoned for either single-family or multifamily housing.

"Small area comprehensive plan" means that portion of a comprehensive plan adopted pursuant to § 15.2-2223 that is specifically applicable to a delineated area within a locality rather than the locality as a whole.

B. Notwithstanding any other provision of law, general or special, no local governing body shall (i) require any unreasonable proffer, as described in subsection C, in connection with a rezoning or a proffer condition amendment as a condition of approval of a new residential development or new residential use or (ii) deny any rezoning application or proffer condition amendment for a new residential development or new residential use where such denial is based in whole or in part on an applicant's failure or refusal to submit an unreasonable proffer or proffer condition amendment.

C. Notwithstanding any other provision of law, general or special, as used in this chapter, a proffer, or proffer condition amendment, whether onsite or offsite, offered voluntarily pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1, shall be deemed unreasonable unless:

1. It addresses an impact that is specifically attributable to a proposed new residential development or other new residential use applied for; and

2. If an offsite proffer, it addresses an impact to an offsite public facility, such that (i) the new residential development or new residential use creates a need, or an identifiable portion of a need, for one or more public facility improvements in excess of existing public facility capacity at the time of the rezoning or proffer condition amendment and (ii) each such new residential development or new residential use applied for receives a direct and material benefit from a proffer made with respect to any such public facility improvements. A locality may base its assessment of public facility capacity on the projected impacts specifically attributable to the new residential development or new residential use.

D. Notwithstanding the provisions of subsection C:

1. An applicant or owner may, at the time of filing an application pursuant to this section or during the development review process, submit any onsite or offsite proffer that the owner and applicant deem reasonable and appropriate, as conclusively evidenced by the signed proffers.

2. Failure to submit proffers as set forth in subdivision 1 shall not be a basis for the denial of any rezoning or proffer condition amendment application.

E. Notwithstanding any other provision of law, general or special:

1. Actions brought to contest the action of a local governing body in violation of this section shall be brought only by the aggrieved applicant or the owner of the property subject to a rezoning or proffer condition amendment pursuant to subsection F of § 15.2-2285, provided that the applicant objected in writing to the governing body regarding a proposed condition prior to the governing body's grant or denial of the rezoning application.

2. In any action in which a local governing body has denied a rezoning or an amendment to an existing proffer and the aggrieved applicant proves by a preponderance of the evidence that it refused or failed to submit an unreasonable proffer or proffer condition amendment that was requested in writing by the local governing body in violation of this section, the court shall presume, absent clear and convincing evidence to the contrary, that such refusal or failure was the controlling basis for the denial.

3. In any successful action brought pursuant to this section contesting an action of a local governing body in violation of this section, the applicant may be entitled to an award of reasonable attorney fees and costs and to an order remanding the matter to the governing body with a direction to approve the rezoning or proffer condition amendment without the inclusion of any unreasonable proffer or to amend the proffer to bring it into compliance with this section. If the local governing body fails or refuses to approve the rezoning or proffer condition amendment, or fails or refuses to amend the proffer to bring it into compliance with this section, within a reasonable time not to exceed 90 days from the date of the court's order to do so, the court shall enjoin the local governing body from interfering with the use of the property as applied for without the unreasonable proffer. Upon remand to the local governing body pursuant to this subsection, the requirements of § 15.2-2204 shall not apply.

F. The provisions of this section shall not apply to any new residential development or new residential use occurring within any of the following areas: (i) an approved small area comprehensive plan in which the delineated area is designated as a revitalization area, encompasses mass transit as defined in § 33.2-100, includes mixed use development, and allows a density of at least 3.0 floor area ratio in a portion thereof; (ii) an approved small area comprehensive plan that encompasses an existing or planned Metrorail station, or is adjacent to a Metrorail station located in a neighboring locality, and allows additional density within the vicinity of such existing or planned station; or (iii) an approved service district created pursuant to

307 § 15.2-2400 that encompasses an existing or planned Metrorail station.

308 G. This section shall be construed as supplementary to any existing provisions limiting or curtailing
309 proffers or proffer condition amendments for new residential development or new residential use that are
310 consistent with its terms and shall be construed to supersede any existing statutory provision with respect to
311 proffers or proffer condition amendments for new residential development or new residential use that are
312 inconsistent with its terms.

313 H. Notwithstanding any provision in this section to the contrary, nothing contained herein shall be deemed
314 or interpreted to prohibit or to require communications between an applicant or owner and the locality. The
315 applicant, owner, and locality may engage in pre-filing and post-filing discussions regarding the potential
316 impacts of a proposed new residential development or new residential use on public facilities as defined in
317 subsection A and on other public facilities of the locality, and potential voluntary onsite or offsite proffers,
318 permitted under subsections C and D, that might address those impacts. Such verbal discussions shall not be
319 used as the basis that an unreasonable proffer or proffer condition amendment was required by the locality.
320 Furthermore, notwithstanding any provision in this section to the contrary, nothing contained herein shall be
321 deemed or interpreted to prohibit or to require presentation, analysis, or discussion of the potential impacts of
322 new residential development or new residential use on the locality's public facilities.

323 **§ 15.2-2310. Applications for special exceptions and variances.**

324 A. Applications for special exceptions and variances may be made by any property owner, tenant,
325 government official, department, board or bureau. Applications shall be made to the zoning administrator in
326 accordance with rules adopted by the board. The application and accompanying maps, plans or other
327 information shall be transmitted promptly to the secretary of the board who shall place the matter on the
328 docket to be acted upon by the board. No special exceptions or variances shall be authorized except after
329 notice and hearing as required by § 15.2-2204. The zoning administrator shall also transmit a copy of the
330 application to the local planning commission which may send a recommendation to the board or appear as a
331 party at the hearing. Any locality may provide by ordinance that substantially the same application will not be
332 considered by the board within a specified period, not exceeding one year.

333 *B. In addition to the provisions of subsection A, no special exceptions or variances shall be authorized*
334 *that involve the development of a data center, as that term is defined in subdivision A 43 of § 58.1-3506,*
335 *except after at least two public hearings thereon, pursuant to public notice as required by § 15.2-2204, after*
336 *which the board may render its decision pursuant to § 15.2-2312.*

337 **§ 15.2-2316.4:1. Zoning; other wireless facilities and wireless support structures.**

338 A. A locality shall not require that a special exception, special use permit, or variance be obtained for the
339 installation or construction of an administrative review-eligible project but may require administrative review
340 for the issuance of any zoning permit, or an acknowledgement that zoning approval is not required, for such a
341 project.

342 B. A locality may charge a reasonable fee for each application submitted under subsection A or for any
343 zoning approval required for a standard process project. The fee shall not include direct payment or
344 reimbursement of third-party fees charged on a contingency basis or a result-based arrangement. Upon
345 request, a locality shall provide the applicant with the cost basis for the fee. A locality shall not charge
346 market-based or value-based fees for the processing of an application. If the application is for:

- 347 1. An administrative review-eligible project, the fee shall not exceed \$500; and
348 2. A standard process project, the fee shall not exceed the actual direct costs to process the application,
349 including permits and inspection.

350 C. The processing of any application submitted under subsection A or for any zoning approval required
351 for a standard process project shall be subject to the following:

352 1. Within 10 business days after receiving an incomplete application, the locality shall notify the applicant
353 that the application is incomplete. The notice shall specify any additional information required to complete
354 the application. The notice shall be sent by electronic mail to the applicant's email address provided in the
355 application. If the locality fails to provide such notice within such 10-day period, the application shall be
356 deemed complete.

357 2. Except as provided in subdivision 3, a locality shall approve or disapprove a complete application:

358 a. For a new structure within the lesser of 150 days of receipt of the completed application or the period
359 required by federal law for such approval or disapproval; or

360 b. For the co-location of any wireless facility that is not a small cell facility within the lesser of 90 days of
361 receipt of the completed application or the period required by federal law for such approval or disapproval,
362 unless the application constitutes an eligible facilities request as defined in 47 U.S.C. § 1455(a).

363 3. Any period specified in subdivision 2 for a locality to approve or disapprove an application may be
364 extended by mutual agreement between the applicant and the locality.

365 D. A complete application for a project shall be deemed approved if the locality fails to approve or
366 disapprove the application within the applicable period specified in subdivision C 2 or any agreed extension
367 thereof pursuant to subdivision C 3.

368 E. If a locality disapproves an application submitted under subsection A or for any zoning approval

required for a standard process project:

1. The locality shall provide the applicant with a written statement of the reasons for such disapproval; and

2. If the locality is aware of any modifications to the project as described in the application that if made would permit the locality to approve the proposed project, the locality shall identify them in the written statement provided under subdivision 1. The locality's subsequent disapproval of an application for a project that incorporates the modifications identified in such a statement may be used by the applicant as evidence that the locality's subsequent disapproval was arbitrary or capricious in any appeal of the locality's action.

F. A locality's action on disapproval of an application submitted under subsection A or for any zoning approval required for a standard process project shall:

1. Not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services; and

2. Be supported by substantial record evidence contained in a written record publicly released within 30 days following the disapproval.

G. An applicant adversely affected by the disapproval of an application submitted under subsection A or for any zoning approval required for a standard process project may file an appeal pursuant to subsection F of § 15.2-2285, or to § 15.2-2314 if the requested zoning approval involves a variance, within 30 days following delivery to the applicant or notice to the applicant of the record described in subdivision F 2.