

## **FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>CBO Analyst/Phone:</b>
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### **Legislation Title:**

AN ORDINANCE relating to communication cabinets in public places; amending Sections 15.02.042, 15.32.010, 15.32.020, 15.32.130, 15.32.140, 15.91.002, and 15.91.016; and adding new Sections 15.32.200, 15.32.250, and 15.32.260 of the Seattle Municipal Code.

### **Summary of the Legislation:**

This legislation would help expand broadband deployment in the City of Seattle while incentivizing deployments that have minimal visual impacts on Seattle’s right of way (known as public place), by encouraging installation of underground or pole-mounted facilities or small devices in residential zones. This legislation would add new sections to the Seattle Municipal Code (“SMC”) to address requirements for installing communication cabinets in the public place and apply consistent setback standards with other uses. Once adopted, this legislation would supersede the existing Seattle Department of Transportation (“SDOT”) Director’s Rule 2-2009 regarding the placement of telecommunication facilities in the public place.

The proposed legislation:

- Defines “communication cabinet” as all structures, cabinets, electric meters, and any other appurtenances installed in the public place, except utility poles and attachments to poles; by any publicly- or privately-owned entity for the purposes of providing any communications transmission, emission, or reception of signals, writings, pictures, images, and sounds or intelligence of any nature; by wire, cable, radio, optical, or other electromagnetic systems;
- States that the standards in Chapter 15.32 are imposed to minimize the health, safety, and visual impact of communication cabinets and accessory equipment in the public place;
- Requires that communication cabinets be sited, when possible, using the fewest and smallest cabinets and equipment available that satisfy the service objectives of the site or project and in locations that reduce the visual impact of the cabinets and the overall project;
- Requires for new at-grade communication cabinets that are more than 36 inches in height including footings or bases as measured from the grade of the surrounding public place, or that have a maximum volume of more than 18 cubic feet, that the applicant:
  - Provide public notice by mail to all residences, businesses, and property owners within a 100-foot radius of site and place an onsite notice of application;
  - Provide mitigation screening to cabinets proposed in residential zones; and

- Provide written proof that that the cabinet could not be installed: (1) underground, (2) on a pole, or (3) on private property. The Director, in the Director's judgment, may waive the pole attachment requirement if the proposed project deploys enhanced communication service that provides a new service or upgrades a similar service provided in the project area and the proposed at-grade project design minimizes the visual impacts to the public place and results in significantly fewer cabinet installations in the project area.
- Updates setback and clearance requirements to be consistent with the Right of Way Improvements Manual and other Public Space Management related codes (such as sidewalk cafes and street food vending);
- Adds communication cabinets in the scope of violations that may be enforceable by SDOT;
- Establishes a maximum cabinet size of 66 inches in height or have a maximum volume of 36 cubic feet. The Director may allow larger cabinet sizes in unimproved public places, but not in planting strips or adjacent to improved public places;
- Requires that for the purposes of active monitoring and reporting of maintenance issues with the communication cabinets, the service providers shall place contact information on the exterior of all existing at-grade cabinets within 180 days of the effective date of the ordinance. All new at-grade communication cabinets will be required to have contact information prominently displayed at the time of installation;
- Requires that all service providers shall submit quarterly reports to SDOT that describe each complaint received in the prior quarter, how the complaint was resolved, and how long it took to resolve the complaint; and
- Gives the SDOT Director authority to draft and implement rules related to new communication cabinet installations.

### **Background:**

Various stakeholder groups have expressed a need for revisions to SDOT's current communication cabinet permitting and siting policy detailed in Director's Rule 2-2009. SDOT agrees that the current rule results in an unpredictable process for both residents and project proponents. Amendments to Title 15 are proposed, therefore, to supersede the existing rule and provide a complete basis in the Code for SDOT to regulate communication cabinets in the right of way.

In early 2013, SDOT began doing outreach to stakeholder groups in preparation for developing legislation for siting new communication cabinets in the public place. In June 2013, SDOT hosted a meeting with: stakeholders from North Beacon Hill, Century Link, Seattle Pedestrian Advisory Board, Seattle Commission for People with Disabilities, Citizens Telecommunications and Technology Advisory Board; representatives from the Public Space Management Task Force; and City staff from SDOT, Department of Information Technology (DoIT), Department of Planning and Development (DPD), Office of Economic Development (OED), and Seattle City Light (SCL); to provide feedback on siting issues in the public place. This collective group concurred that the legislation should balance the following policy priorities:

1. Improve broadband deployment, especially in underserved areas;
2. Keep public spaces and rights-of-way free from visual clutter and in a state of good repair; and
3. Ensure other priorities for public spaces and rights-of-way are still viable including green stormwater infrastructure, public gathering and play areas, tree canopy coverage, gardening and other activation and community building goals.

In November 2013, SDOT prepared a draft of the legislation and engaged with a third-party facilitator to broaden and formalize the stakeholder involvement in order to create an amended and more informed legislative proposal. The stakeholder advisory group consisted of representatives from communication service providers including CenturyLink, AT&T, Comcast, Wave, and Verizon; community organizations including Upping Technology in Underserved Neighborhoods, and the Beacon Hill Community Council; City departments including SDOT, DoIT, SCL, and OED; and City advisory boards including Citizens Telecommunications and Technology Advisory Board and Seattle Pedestrian Advisory Board. SDOT held five meetings from January through March 2014 to discuss the policy proposal and refine the legislation for deploying new at-grade communication cabinets in the public place.

Please check one of the following:

**X** **This legislation has financial implications.**

**Appropriations:** N/A

Appropriations Notes: N/A

**Anticipated Revenue/Reimbursement Resulting from this Legislation:**

<b>Fund Name and Number</b>	<b>Department</b>	<b>Revenue Source</b>	<b>2014 Revenue</b>	<b>2015 Revenue</b>
Transportation Operating Fund 10310	Seattle Department of Transportation	51H-installing or maintaining electrical or telecommunication lines-Base permit fee	\$25,404	\$34,164
		Reviews	\$59,856	\$80,496
		Inspections	\$29,928	\$40,248
<b>TOTAL</b>			<b>\$115,188</b>	<b>\$154,908</b>

Revenue/Reimbursement Notes:

See Attachment A: Proposed Communication Cabinet Permit Fee Examples for assumption on permit volumes and fees.

Service providers have estimated 349 new above-grade communications cabinets are being considered for installation in the public right-of-way over the following year after the legislation is adopted. It is anticipated that this will be an initial build-out for the first year of implementation to cover a back-log of planned work, and will not be the number of installations that could occur on an annual basis. Additionally, service providers have estimated that an additional 480 new above-grade cabinets will be installed over the course of five years after the legislation is adopted.

**Other Implications:**

**a) Does the legislation have indirect financial implications, or long-term implications?**

No

**b) What is the financial cost of not implementing the legislation?**

None

**c) Does this legislation affect any departments besides the originating department?**

DPD, SCL, and DoIT.

**d) What are the possible alternatives to the legislation that could achieve the same or similar objectives?**

None

**e) Is a public hearing required for this legislation?**

No

**f) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**

Yes. SEPA Determination of Non Significance was posted 4/3/2014 - 4/24/2014. An appeal of the DNS was not filed with Hearing Examiner.

**g) Does this legislation affect a piece of property?**

No

**h) Other Issues:** None

**List attachments to the fiscal note below:**

Attachment A: Proposed Communication Cabinet Permit Fee Examples

## **Attachment A: Proposed Communication Cabinet Permit Fee Examples**

### **Installing or maintaining electrical or telecommunication lines -- Use Code 51H**

Service providers have estimated 349 new above-grade communications cabinets are being considered for installation in the public right-of-way over the following year after the legislation is adopted. It is anticipated that this will be an initial build-out for the first year of implementation to cover a back-log of planned work, and will not be the number of installations that could occur on an annual basis. Additionally, service providers have estimated that an additional 480 new above-grade cabinets will be installed over the course of five years after the adoption of the legislation.

The legislation incentivizes fewer and smaller communication cabinet installations be considered for a project area. For cabinets that are proposed to be installed at-grade and are over 36 inches in height or exceed 18 cubic feet in volume, the applicant shall also provide documentation that below-grade, pole-mounted, or private property locations are not feasible for the at-grade cabinet permit application. So, the estimates provided above may be not all be for at-grade cabinets and could include other locations that are not impacted by this legislation (i.e., private property, below-grade, or pole-mounted).

Based on the estimates provided by the service providers and assuming that all cabinets would be installed at-grade, we have made the following assumptions for permit volumes in the remainder of 2014 and 2015: 2014 Assumption—174 permits; and 2015 Assumption—234 permits.

At-grade cabinets would be subject to the following permit fees and review processes:

- **\$146 Issuance Fee**
  - Application review to verify site plan and application content;
  - Research existing and potential permitted activity conflicts;
  - Permit drafting, record keeping, and mapping.
  
- **Use Fee**
  - This is an escalating usage fee that is calculated based on: the street type the work is proposed to occur on arterial or non-arterial streets; the length of time to complete the work; and the square footage use area needed to accommodate the work.
  - It is estimated that installation and restoration work would not take more than 30 days to complete at a site and the use fee would be at the lowest rate for both non-arterial and arterial right of way locations.
    - Non-Arterial: month 1= no fee
    - Arterial: month 1= \$.10/square foot/10 day
      - Assume that work site use area is 1,000 square feet

- **Permit Reviews**

- For a Street Use Permit review, each application for an at-grade communication cabinet may require 2 hours of review on average that would cost \$344 in review charges at \$172/hour;
  - Cabinets below the size threshold of 36 inches in height or 18 cubic feet in volume would have one hour of review.
  - Cabinets above the size threshold would require at least 2 hours of review to coordinate the public notice comment period posting and verify application submittal requirements regarding the proposed at-grade location.
  - Additionally, if cabinets above the size threshold were in a residential zone, mitigation screening would be required and require an additional hour of review.
- A Traffic Control Plan (TCP) review is also required if the cabinet is proposed to be installed on an arterial. The TCP review would cost \$86 for ½ hour of review.

- **Inspections**

- An initial and final inspection is required per permit at a cost of \$86 per inspection;
- Inspect service providers for permit compliance during and after installation;
- Verify cabinet installed per approved site plan and Traffic Control Plan.

**Total Permit Fees**

- **\$662 permit fee estimate for non-arterial locations**
- **\$1,048 permit fee estimate for arterial locations**