

Zoning Text Amendment No: 05-10  
Concerning: Telecommunication Facility  
Amendments  
Draft No. & Date: 3 – 7/5/05  
Introduced: July 12, 2005  
Public Hearing: 9/20/05 – 1:30 p.m.  
Adopted:  
Effective:  
Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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By: Councilmembers Praisner and Knapp

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance for the purpose of:

- defining amateur radio facility and allowing an amateur radio facility as a permitted use in certain zones;
- defining radio and television stations and towers and establishing special exception standards for radio and television broadcasting station and tower; and
- generally amending the telecommunication facility zoning regulations.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

|                   |                                      |
|-------------------|--------------------------------------|
| DIVISION 59-A-2   | “DEFINITIONS AND INTERPRETATION”     |
| Section 59-A.2.1  | “Definitions”                        |
| DIVISION 59-B-1   | “EXEMPTIONS FROM HEIGHT CONOTROLS”   |
| Section 59-B-1.1  | “Belfries, chimneys, etc.”           |
| DIVISION 59-C-1   | “RESIDENTIAL ZONES, ONE-FAMILY”      |
| Section 59-C-1.31 | “Land uses”                          |
| Section 59-C-1.71 | “Land uses”                          |
| DIVISION 59-C-2   | “RESIDENTIAL ZONES, MULTIPLE-FAMILY” |
| Section 59-C-2.3  | “Land uses”                          |
| DIVISION 59-C-4   | “COMMERCIAL ZONES”                   |
| Section 59-C-4.2  | “Land uses”                          |
| DIVISION 59-C-5   | “INDUSTRIAL ZONES”                   |
| Section 59-C-5.21 | “Allowable uses”                     |
| DIVISION 59-C-6   | “CENTRAL BUSINESS DISTRICT ZONES”    |
| Section 59-C-6.22 | “Land uses”                          |
| DIVISON 59-C-8    | “TRANSIT STATION DEVELOPMENT AREA”   |
| Section 59-C-8.3  | “Land uses”                          |
| DIVISION 59-C-9   | “AGRICULTURAL ZONES”                 |
| Section 59-C-9.3  | “Land uses”                          |

|                     |  |
|---------------------|--|
| DIVISION 59-C-10    | “RMX ZONES—RESIDENTIAL MIXED USE DEVELOPMENT”  |
| Section 59-C-10.3.2 | “Land uses”  |
| DIVISION 59-G-2     | “SPECIAL EXCEPTIONS—STANDARDS AND REQUIREMENTS”                                      |
| Section 59-G-2.43   | “Public utility buildings, public utility structures and telecommunication facility” |
| Section 59-G-2.44   | “Radio and television broadcasting stations and towers”                              |

|              |  |
|--------------|--|
| EXPLANATION: | <p><b><i>Boldface</i></b> indicates a heading or a defined term.</p> <p><u><i>Underlining</i></u> indicates text that is added to existing laws by the original text amendment.</p> <p><del><i>[Single boldface brackets]</i></del> indicate text that is deleted from existing law by the original text amendment.</p> <p><u><i>Double underlining</i></u> indicates text that is added to the text amendment by amendment.</p> <p><del><i>[[Double boldface brackets]]</i></del> indicate text that is deleted from the text amendment by amendment.</p> <p><i>***</i> indicates existing law unaffected by the text amendment</p> |
|--------------|--|

**ORDINANCE**

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

1           **Sec. 1. Division 59-A-2 is amended as follows:**

2   **DIVISION 59-A-2.       DEFINITIONS AND INTERPRETATION.**

3   **59-A-2.1. Definitions.**

4   \* \* \*

5   **Amateur Radio Facility:** Any facility used for personal, non-commercial radio  
6   communications licensed by the Federal Communications Commission.

7   \* \* \*

8   **Radio and television broadcasting studio:** A facility used for the creation and  
9   production of radio, television, and other electronic media programming. This  
10   includes studios, stages, editing facilities, post-production facilities, and program  
11   distribution via wire or fiber optic cable. A radio and television broadcasting  
12   studio does not include a [broadcast] tower at the same location as the studio.

13  
14   **Radio and television broadcasting stations and towers.** Any facility used to  
15   transmit radio or television communications that are intended to be received by the  
16   general public.

17   \* \* \*

18   **Structure:** An assembly of materials forming a construction for occupancy or use  
19   including, among others, buildings, stadiums, gospel and circus tents, reviewing  
20   stands, platforms, stagings, observation towers, radio and [TV] television  
21   broadcasting towers, telecommunications facilities, water tanks, trestles, piers,  
22   wharves, open sheds, coal bins, shelters, fences, walls, signs, power line towers,  
23   pipelines, railroad tracks and poles.

24   \* \* \*

25   **Telecommunication facility:** Any facility established for the purpose of providing  
26   wireless voice, data or [and] image transmission within a designated service area.  
27   A telecommunication facility must not be staffed. A telecommunication facility

28 consists of one or more antennas attached to a support structure and related  
29 equipment. Antennas are limited to the following types and dimensions: omni-  
30 directional (whip) antennas not exceeding 15 feet in height and 3 inches in  
31 diameter; directional or panel antennas not exceeding 6 feet in height and 2 feet in  
32 width; and satellite or microwave dish antennas not exceeding 6 feet in diameter.  
33 An antenna may be mounted to a structure, a building rooftop or a freestanding  
34 monopole in accordance with Sections 59-A-6.12, 59-A-6.14, and 59-G-2.43.  
35 Equipment may be located within a building, an equipment cabinet, or an  
36 equipment room within an existing building. No lights or signs are permitted on an  
37 antenna or support structure unless required by the Federal Communications  
38 Commission, the Federal Aviation Administration, or the County.

39 \* \* \*

40 **Tower:** A lattice-type structure, guyed or freestanding, supporting antennas used  
41 for radio[,] and television broadcasting, telecommunication, and wireless  
42 transmission.

43 **Sec. 2. Division 59-B-1 is amended as follows:**

44 **DIVISION 59-B-1. EXEMPTIONS FROM HEIGHT CONTROLS.**

45 **Sec. 59-B-1.1. Belfries, chimneys, etc.**

46 The building height limits [set forth in this] under this chapter [shall] do not apply  
47 to belfries, chimneys, cupolas, domes, flagpoles, flues, monuments, [radio towers,]  
48 television antennae or aerials, spires, tanks, water towers, water tanks, air  
49 conditioning units or similar roof structures, and mechanical appurtenances, or, if  
50 associated with an optional method development project and where recommended  
51 in an approved urban renewal plan, rooftop architectural features, except:

- 52 (a) Where such structures are located within an airport approach area, as  
53 designated on the zoning map; or

54 (b) In the case of air conditioning units or similar roof structures and  
 55 mechanical appurtenances located on buildings in the RT-6.0, RT-8.0,  
 56 RT-10.0, RT-12.5 and R-30 Zones or constructed under the standard  
 57 method of development procedures in the CBD-0.5, CBD-R, and  
 58 CBD-1 Zones, this exemption is limited to 8 feet.

59 [No such roof structures, however, may] A roof structure must not have a total area  
 60 greater than 25 percent of the roof area except that a larger area may be approved  
 61 for buildings approved by the Planning Board under the Central Business District  
 62 optional method of development procedure[s in the central business district zones].  
 63 A roof structure must not be used for any purpose other than a use incidental to the  
 64 main use of the building. Exempt space [may] must not be used for retail, general  
 65 and professional offices, or similar uses.

66 **Sec. 3. DIVISION 59-C-1 is amended as follows:**

67 **DIVISION 59-C-1. RESIDENTIAL ZONES, ONE-FAMILY.**

68 \* \* \*

69 **59-C-1.3. Standard development.**

70 \* \* \*

71 **59-C-1.31. Land uses.**

72 \* \* \*

|   | RE-2                  | RE-2C                 | RE-1                  | R-200                 | R-150                 | R-90                  | R-60                  | R-40                  | R-4<br>plex           | RMH<br>200            |
|---|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| <b>(b) Transportation, communication and utilities.</b>   |                       |                       |                       |                       |                       |                       |                       |                       |                       |                       |
| * * *   |                       |                       |                       |                       |                       |                       |                       |                       |                       |                       |
| <u>Amateur radio facility.</u>  | <u>P*/SE</u>          |
| * * *   |                       |                       |                       |                       |                       |                       |                       |                       |                       |                       |
| Public utility buildings[, public utility] and structures[, and telecommunications facilities]. | [P <sup>18</sup> /SE] |

|  |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |
|--|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Radio and television broadcasting stations and towers. | SE                  |
| * * *  |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |
| Telecommunication facility.                            | P <sup>18</sup> /SE |

73 \* Must not exceed 100 feet in height; however, a special exception for additional height  
 74 may be granted, by the Board of Appeals if it can be demonstrated that additional height  
 75 is needed to engage in amateur radio communications.

76 18 Subject to Section 59-A-6.12 and 59-A-6.14

77 **59-C-1.7. R-T zones, townhouse, residential.**

78 **59-C-1.71. Land uses.**

79 \* \* \*

|   | R-T<br>6.0 | R-T<br>8.0 | R-T<br>10.0 | R-T<br>12.5 | R-T<br>15.0 |
|---|------------|------------|-------------|-------------|-------------|
| <b>(b) Transportation, communication and utilities.</b> |            |            |             |             |             |
| Amateur radio facility.                                 | P*/SE      | P*/SE      | P*/SE       | P*/SE       | P*/SE       |
| * * *   |            |            |             |             |             |
| Public utility buildings and structures.                | SE         | SE         | SE          | SE          | SE          |
| * * *   |            |            |             |             |             |

80 \* Must not exceed 100 feet in height; however, a special exception for additional height  
 81 may be granted, by the Board of Appeals if it can be demonstrated that additional height  
 82 is needed to engage in amateur radio communications.

83

84 **Sec. 4. DIVISION 59-C-2 is amended as follows:**

85 **DIVISION 59-C-2. RESIDENTIAL ZONES, MULTIPLE-FAMILY.**

86 \* \* \*

87 **59-C-2.3. Land uses.**

|   |       |       |       |       |
|---|-------|-------|-------|-------|
| * * *   | R-30  | R-20  | R-10  | R-H   |
| <b>(b) Transportation, communication and utilities.</b> |       |       |       |       |
| Amateur radio facility.                                 | P*/SE | P*/SE | P*/SE | P*/SE |

|  |    |    |    |                   |
|--|----|----|----|-------------------|
| * * *  |    |    |    |                   |
| Public utility buildings and structures.               | SE | SE | SE | SE <sup>[4]</sup> |
| Radio and television broadcasting stations and towers. | SE | SE | SE |                   |
| * * *  |    |    |    |                   |

88 <sup>14</sup> Not including above ground transmission lines nor radio and television broadcasting  
 89 stations and towers.]

90 \* Must not exceed 100 feet in height; however, a special exception for additional height  
 91 may be granted, by the Board of Appeals if it can be demonstrated that additional height  
 92 is needed to engage in amateur radio communications.

93

94 **Sec. 5. DIVISION 59-C-4 amended as follows:**

95 **DIVISION 59-C-4. COMMERCIAL ZONES.**

96 \* \* \*

97 **59-C-4.2. Land uses.**

98 \* \* \*

|   | C-T          | O-M          | C-O                  | C-P                  | C-1          | C-2                  | C-3                  | C-4          | C-5                  | C-6          | H-M                  | Country Inn  |
|---|--------------|--------------|----------------------|----------------------|--------------|----------------------|----------------------|--------------|----------------------|--------------|----------------------|--------------|
| (c)<br>Transportation,<br>communication<br>and utilities:                                     |              |              |                      |                      |              |                      |                      |              |                      |              |                      |              |
| <u>Amateur radio facility.</u>  | <u>P*/SE</u> | <u>P*/SE</u> | <u>P*/SE</u>         | <u>P*/SE</u>         | <u>P*/SE</u> | <u>P*/SE</u>         | <u>P*/SE</u>         | <u>P*/SE</u> | <u>P*/SE</u>         | <u>P*/SE</u> | <u>P*/SE</u>         | <u>P*/SE</u> |
| * * *   |              |              |                      |                      |              |                      |                      |              |                      |              |                      |              |
| Public utility buildings [,public utility] and structures [and telecommunication facilities]. | SE           | SE           | [P <sup>8</sup> ]/SE | [P <sup>8</sup> ]/SE | SE           | [P <sup>8</sup> ]/SE | [P <sup>8</sup> ]/SE | SE           | [P <sup>8</sup> ]/SE |              | [P <sup>8</sup> ]/SE | SE           |
| Radio and television broadcasting stations and towers.  |              |              | SE/P <sup>55</sup>   |                      |              | SE/P <sup>55</sup>   | SE/P <sup>55</sup>   |              |                      |              |                      |              |
| Radio and television broadcasting studios.  |              |              | P                    |                      |              | P                    |                      | P            |                      | P            |                      |              |

|                                    |           |           |                         |                         |           |                         |                         |           |                         |  |                         |           |
|------------------------------------|-----------|-----------|-------------------------|-------------------------|-----------|-------------------------|-------------------------|-----------|-------------------------|--|-------------------------|-----------|
| * * *                              |           |           |                         |                         |           |                         |                         |           |                         |  |                         |           |
| <u>Telecommunication facility.</u> | <u>SE</u> | <u>SE</u> | <u>P<sup>8</sup>/SE</u> | <u>P<sup>8</sup>/SE</u> | <u>SE</u> | <u>P<sup>8</sup>/SE</u> | <u>P<sup>8</sup>/SE</u> | <u>SE</u> | <u>P<sup>8</sup>/SE</u> |  | <u>P<sup>8</sup>/SE</u> | <u>SE</u> |

99 \* Must not exceed 100 feet in height; however, a special exception for additional height  
 100 may be granted, by the Board of Appeals if it can be demonstrated that additional height  
 101 is needed to engage in amateur radio communications.

102 8 A [freestanding monopole for a] telecommunication facility is a permitted use up to 150  
 103 feet in height with a setback of one foot for every foot of height from all residential and  
 104 agricultural zoned properties.

105 \* \* \*  
 106 55 A radio and television broadcasting station without a broadcast tower is a permitted use.

107 **Sec. 6. DIVISION 59-C-5 is amended as follows:**

108 **DIVISION 59-C-5. INDUSTRIAL ZONES.**

109 \* \* \*

110 **59-C-5.21. Allowable uses.**

111 \* \* \*

|  | I-1                | I-2          | I-3                | I-4                | R&D                | LSC                |
|--|--------------------|--------------|--------------------|--------------------|--------------------|--------------------|
| <b>(c) Transportation, communication and utilities.</b>  |                    |              |                    |                    |                    |                    |
| <u>Amateur radio facility.</u>   | <u>P*/SE</u>       | <u>P*/SE</u> | <u>P*/SE</u>       | <u>P*/SE</u>       | <u>P*/SE</u>       | <u>P*/SE</u>       |
| * * *  |                    |              |                    |                    |                    |                    |
| Public utility buildings [public utility] <u>and</u> structures [and telecommunication facilities]. <sup>[4]</sup> | [P]/SE             | [P]/SE       | [P]/SE             | [P]/SE             | [P]/SE             | SE                 |
| Radio and television broadcasting stations <u>and</u> towers [and accessory structures].                           | SE/P <sup>33</sup> | P            | SE/P <sup>33</sup> | SE/P <sup>33</sup> | SE/P <sup>33</sup> | SE/P <sup>33</sup> |
| <u>Telecommunication facility.</u> <sup>4</sup>  | <u>P</u>           | <u>P</u>     | <u>P</u>           | <u>P</u>           | <u>P</u>           | <u>P</u>           |

112 4 A [freestanding monopole for a] telecommunications facility is a permitted use up to 199  
 113 feet in height with a setback of one foot for every foot of height from all residential and  
 114 agricultural zoned properties.

115 33 Radio and television broadcasting station without a broadcast tower is a permitted use.

116 \* Must not exceed 100 feet in height; however, a special exception for additional height  
 117 may be granted, by the Board of Appeals if it can be demonstrated that additional height  
 118 is needed to engage in amateur radio communications.

119 **Sec. 7. DIVISION 59-C-6 is amended as follows:**

120 **DIVISION 59-C-6. CENTRAL BUSINESS DISTRICT ZONES.**

121 \* \* \*

122 **59-C-6.22. Land uses.**

123 \* \* \*

|   | CBD-0.5      |              | CBD-R1       |              | CBD-1        |              | CBD-2        |              | CBD-3        |              | CBD-R2       |              |
|---|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
|   | S            | O            | S            | O            | S            | O            | S            | O            | S            | O            | S            | O            |
| <b>(c) Transportation, communication and utilities.</b> |              |              |              |              |              |              |              |              |              |              |              |              |
| <u>Amateur radio facility.</u>                          | <u>P*/SE</u> |
| * * *   |              |              |              |              |              |              |              |              |              |              |              |              |
| Public utility buildings and structures.                |              | SE           |
| Radio and television broadcasting studio.               |              |              |              |              | P            | P            | P            | P            | P            | P            |              |              |
| Radio and television stations and towers.               |              |              |              | SE           |
| * * *   |              |              |              |              |              |              |              |              |              |              |              |              |

124 \* Must not exceed 100 feet in height; however, a special exception for additional height  
 125 may be granted, by the Board of Appeals if it can be demonstrated that additional height  
 126 is needed to engage in amateur radio communications.

127

128 **Sec. 8. Division 59-C-8 is amended as follows:**

129 **DIVISION 59-C-8. TRANSIT STATION DEVELOPMENT AREA**  
 130 **ZONES.**

131 \* \* \*

132 **59-C-8.3. Land uses.**

|   | TS-R         | TS-M         |
|---|--------------|--------------|
| <b>(b) Transportation, communication and utilities.</b> |              |              |
| <u>Amateur radio facility.</u>                          | <u>P*/SE</u> | <u>P*/SE</u> |
| * * *   |              |              |
| Public utility buildings and structures.                |              | P            |
| Radio and television broadcasting studios.              |              | SE           |
| * * *   |              |              |

133 \* Must not exceed 100 feet in height; however, a special exception for additional height  
 134 may be granted, by the Board of Appeals if it can be demonstrated that additional height  
 135 is needed to engage in amateur radio communications.

136

137 **Sec. 9. DIVISION 59-C-9 is amended as follows:**

138 **DIVISION 59-C-9. AGRICULTURAL ZONES.**

139 \* \* \*

140 **59-C-9.3. Land uses.**

141 \* \* \*

|   | Rural         | RC              | LDRC            | RDT           | RS                       | RNC                   |
|---|---------------|-----------------|-----------------|---------------|--------------------------|-----------------------|
| <b>(f) Transportation, Communication and Utilities:</b>   |               |                 |                 |               |                          |                       |
| Airstrip, associated with farm.   |               | SE <sup>2</sup> | SE              | SE            |                          |                       |
| <u>Amateur radio facility.</u>  | <u>P*/SE</u>  | <u>P*/SE</u>    | <u>P*/SE</u>    | <u>P*/SE</u>  | <u>P*/SE</u>             | <u>P*/SE</u>          |
| * * *   |               |                 |                 |               |                          |                       |
| Public utility buildings [, public utility] and structures [and telecommunication facilities 33]. | SE            | SE              | SE              | SE            | [P <sup>32</sup> /] SE   | SE <sup>2</sup>       |
| Radio or television broadcasting [station or tower] <u>stations and towers.</u>                   | SE            | SE <sup>2</sup> | SE <sup>2</sup> | SE            | SE                       | <u>SE</u>             |
| <u>Telecommunication facility.</u>  | <u>P33/SE</u> | <u>P33/SE</u>   | <u>P33/SE</u>   | <u>P/33SE</u> | <u>P<sup>32</sup>/SE</u> | <u>SE<sup>2</sup></u> |

142 2 This use or class or uses is not permitted in the portion of [a] any [rural] cluster  
 143 development regulated by section 59-9.52 or in any [the] rural open space area [as]  
 144 regulated by section 59-C-9.57[, except as noted in those sections].

145 32 A [freestanding monopole for a] telecommunication facility is a permitted use if the  
 146 height does not exceed the building height of the zone and the monopole is setback one  
 147 foot for every foot of height from the property line.

148 33 A [freestanding monopole for a] telecommunications facility is a permitted use up to 199  
 149 feet in height within an overhead transmission line right-of-way but must not be any  
 150 closer than 300 feet to any residence .

151 \* Must not exceed 100 feet in height; however, a special exception for additional height  
 152 may be granted, by the Board of Appeals if it can be demonstrated that additional height  
 153 is needed to engage in amateur radio communications.

154

155           **Sec. 10. DIVISION 59-C-10. RMX ZONES—RESIDENTIAL MIXED**  
 156 **USE DEVELOPMENT.**

157 \* \* \*

158 **59-C-10.3.2. Land uses.**

|  | <b>RMX-1<br/>RMX-1/TDR</b> | <b>RMX-2<br/>RMX-2/TDR</b> | <b>RMX-2C</b> | <b>RMX-3<br/>RMX-3/TDR</b> | <b>RMX-3C</b> |
|--|----------------------------|----------------------------|---------------|----------------------------|---------------|
| <b>(b) Transportation, Communication, and Utilities:</b> |                            |                            |               |                            |               |
| <u>Amateur radio facility.</u>                           | <u>P*/SE</u>               | <u>P*/SE</u>               | <u>P*/SE</u>  | <u>P*/SE</u>               | <u>P*/SE</u>  |
| * * *  |                            |                            |               |                            |               |
| Public utility buildings and structures.                 | SE                         | SE                         | SE            | SE                         | SE            |
| Radio and television broadcasting studio.                | P                          | P                          | P             | P                          | P             |
| * * *  |                            |                            |               |                            |               |

159 \*     Must not exceed 100 feet in height; however, a special exception for additional height  
 160     may be granted, by the Board of Appeals if it can be demonstrated that additional height  
 161     is needed to engage in amateur radio communications.

162

163           **Sec. 11. DIVISION 59-G-2 is amended as follows:**

164 **DIVISION 59-G-2. SPECIAL EXCEPTIONS—STANDARDS AND**  
 165 **REQUIREMENTS.**

166 \* \* \*

167 **Sec. 59-G-2.43. Public utility buildings[, public utility] and structures [and**  
 168 **telecommunication facility].**

169       (a) A public utility building or public utility structure, not otherwise  
 170 permitted, may be allowed by special exception. The findings of this  
 171 subsection (a) do not apply to electric power transmission or  
 172 distribution lines carrying in excess of 69,000 volts. For other  
 173 buildings or structures regulated by this section, the Board must make  
 174 the following findings:

- 175 (1) The proposed building or structure at the location selected is  
176 necessary for public convenience and service.
- 177 (2) The proposed building or structure at the location selected will  
178 not endanger the health and safety of workers and residents in  
179 the community and will not substantially impair or prove  
180 detrimental to neighboring properties.
- 181 (b) A public utility building allowed in any residential zone, must,  
182 whenever practicable, have the exterior appearance of a residential  
183 building[s] and must have suitable landscaping, screen planting and  
184 fencing, wherever deemed necessary by the Board.
- 185 (c) The Board may approve a public utility building and public utility  
186 structure exceeding the height limits of the applicable zone if, in the  
187 opinion of the Board, adjacent residential developments and uses will  
188 not be adversely affected by the proposed use.
- 189 [(d) Any proposed broadcasting tower must have a setback of one foot  
190 from all property lines for every foot of height of the tower; provided,  
191 that any broadcasting tower lawfully existing on September 1, 1970, is  
192 exempt from the setback limitations imposed by this subsection, and  
193 may be continued, structurally altered, reconstructed or enlarged;  
194 provided further, that any structural change, repair, addition, alteration  
195 or reconstruction must not result in increasing the height of such  
196 tower above the then existing structurally designed height.]
- 197 [(e)] (d) Examples of public utility buildings and structures for which  
198 special exceptions are required under this section are buildings and  
199 structures for the occupancy, use, support or housing of switching  
200 equipment, regulators, stationary transformers and other such devices  
201 for supplying electric service; telephone offices; railroad, bus, trolley,

202 air and boat passengers stations; [radio or television transmitter towers  
203 and stations; telecommunication facilities;] above ground pipelines.  
204 [Additional standards for telecommunication facilities are found in  
205 subsection (j).]

206 [(f)] (e)Reserved.

207 [(g)](f)In addition to the authority granted by Section 59-G-1.22, the Board  
208 may attach to any grant of a special exception under this section other  
209 conditions that it may deem necessary to protect the public health,  
210 safety or general welfare.

211 [(h)](g) Petitions for special exception under this section may be filed on  
212 project basis.

213 [(i)](h)A petitioner under this section is considered an interested person for  
214 purposes of filing a request for a special exception if the petitioner  
215 states in writing under oath that a bona fide effort has been made to  
216 obtain a contractual interest in the subject property for a valid  
217 consideration without success, and that there is an intent to continue  
218 negotiations to obtain the required interest or in the alternative to file  
219 condemnation proceedings should the special exception be granted.

220 [(j)] Any telecommunication facility must satisfy the following standards:

221 (1) A support structure must be set back from the property line as  
222 follows:

223 a. In agricultural and residential zones, a distance of one foot  
224 from the property line for every foot of height of the support  
225 structure.

226 b. In commercial and industrial zones, a distance of one-half  
227 foot from property line for every foot of height of the  
228 support structure from a property line separating the subject

229 site from commercial or industrial zoned properties, and one  
230 foot for every foot of height of the support structure from  
231 residential or agricultural zoned properties.

232 c. The setback from a property line is measured from the base  
233 of the support structure to the perimeter property line.

234 d. The Board of Appeals may reduce the setback requirement  
235 to not less than the building setback of the applicable zone if  
236 the applicant requests a reduction and evidence indicates  
237 that a support structure can be located on the property in a  
238 less visually obtrusive location after considering the height  
239 of the structure, topography, existing vegetation, adjoining  
240 and nearby residential properties, if any, and visibility from  
241 the street.]

242 [(2) A support structure must be set back from any off-site dwelling  
243 as follows:

244 a. In agricultural and residential zones, a distance of 300  
245 feet.

246 b. In all other zones, one foot for every foot in height.

247 c. The setback is measured from the base of the support  
248 structure to the base of the nearest off-site dwelling.

249 d. The Board of Appeals may reduce the setback  
250 requirement in the agricultural and residential zones to a  
251 distance of one foot from an off-site residential building  
252 for every foot of height of the support structure if the  
253 applicant requests a reduction and evidence indicates that  
254 a support structure can be located in a less visually  
255 obtrusive location after considering the height of the

256 structure, topography, existing vegetation, adjoining and  
257 nearby residential properties, and visibility from the  
258 street.]

259 [(3) The support structure and antenna must not exceed 155 feet in  
260 height, unless it can be demonstrated that additional height up  
261 to 199 feet is needed for service, collocation, or public safety  
262 communication purposes. At the completion of construction  
263 and before the final inspection of the building permit, the  
264 applicant must submit documentation to the Department of  
265 Permitting Services as to the height and location of the support  
266 structure.]

267 [(4) The support structure must be sited to minimize its visual  
268 impact. The Board may require the support structure to be less  
269 visually obtrusive by use of screening, coloring, stealth design,  
270 or other visual mitigation options, after considering the height  
271 of the structure, topography, existing vegetation and  
272 environmental features, and adjoining and nearby residential  
273 properties. The support structure and any related equipment]  
274 [buildings or cabinets must be surrounded by landscaping or  
275 other screening options that provide a screen of at least 6 feet in  
276 height.]

277 [(5) The property owner must be an applicant for the special  
278 exception for each support structure. A modification of a  
279 telecommunication facility special exception is not required for  
280 a change to any use within the special exception area not  
281 directly related to the special exception grant. A support  
282 structure must be constructed to hold no less than 3

283 telecommunication carriers. The Board may approve a support  
284 structure holding less than 3 telecommunication carriers if: 1)  
285 requested by the applicant and a determination is made that  
286 collocation at the site is not essential to the public interest; and  
287 2) the Board decides that construction of a lower support  
288 structure with fewer telecommunication carriers will promote  
289 community compatibility. The equipment compound must  
290 have sufficient area to accommodate equipment sheds or  
291 cabinets associated with the telecommunication facility for all  
292 the carriers.]

293 [(6) No signs or illumination are permitted on the antennas or  
294 support structure unless required by the Federal  
295 Communications Commission, the Federal Aviation  
296 Administration, or the County.]

297 [(7) Every freestanding support structure must be removed at the  
298 cost of the owner of the telecommunication facility when the  
299 telecommunication facility is no longer in use by any  
300 telecommunication carrier for more than 12 months.]

301 [(8) All support structures must be identified by a sign no larger  
302 than 2 square feet affixed to the support structure or any  
303 equipment building. The sign must identify the owner and the  
304 maintenance service provider of the support structure or any  
305 attached antenna and provide the telephone number of a person  
306 to contact regarding the structure. The sign must be updated  
307 and the Board of Appeals notified within 10 days of any change  
308 in ownership.]

309 [(9) Outdoor storage of equipment or other items is prohibited.]

310 [(10) Each owner of the telecommunication facility is responsible for  
311 maintaining the telecommunication facility, in a safe condition.]

312 [(11) The applicants for the special exception must file with the  
313 Board of Appeals a recommendation from the  
314 Telecommunications Transmission Facility Coordinating Group  
315 regarding the telecommunication facility. The recommendation  
316 must be no more than one year old.]

317 [(12) Prior to the Board granting any special exception for a  
318 telecommunication facility, the proposed facility must be  
319 reviewed by the County Telecommunication Transmission  
320 Facility Coordinating Group. The Board and Planning Board  
321 must make a separate, independent finding as to need and  
322 location of the facility.]

323 [(k) Any telecommunication facility special exception application for  
324 which a public hearing was held before November 18, 2002 must be  
325 decided based on the standards in effect when the application was  
326 filed.]

327 [(l) Any telecommunication facility constructed as of November 18, 2002  
328 may continue as a conforming use.]

329  
330 **59-G-2.44. Radio and television broadcasting stations and towers.**

331 [See section 59-G-2.43.]

332 Any Radio and television broadcasting station or tower must satisfy the  
333 following standards:

334 (1) A support structure must be set back from the property line as  
335 follows:

- 336 a. In agricultural and residential zones, a distance of one foot  
337 from the property line for every foot of height of the support  
338 structure.
- 339 b. In commercial and industrial zones, a distance of one-half  
340 foot from property line for every foot of height of the  
341 support structure from a property line separating the subject  
342 site from commercial or industrial zoned properties, and one  
343 foot for every foot of height of the support structure from  
344 residential or agricultural zoned properties.
- 345 c. The setback from a property line is measured from the base  
346 of the support structure to the perimeter property line.
- 347 d. The Board of Appeals may reduce the setback requirement  
348 to not less than the building setback of the applicable zone if  
349 the applicant requests a reduction and evidence indicates  
350 that a support structure can be located on the property in a  
351 less visually obtrusive location after considering the height  
352 of the structure, topography, existing vegetation, adjoining  
353 and nearby residential properties, if any, and visibility from  
354 the street.
- 355 (2) A support structure must be set back from any off-site dwelling  
356 as follows:
- 357 a. In agricultural and residential zones, a distance of 300  
358 feet.
- 359 b. In all other zones, one foot for every foot in height.
- 360 c. The setback is measured from the base of the support  
361 structure to the base of the nearest off-site dwelling.

362 d. The Board of Appeals may reduce the setback  
363 requirement in the agricultural and residential zones to a  
364 distance of one foot from an off-site residential building  
365 for every foot of height of the support structure if the  
366 applicant requests a reduction and evidence indicates that  
367 a support structure can be located in a less visually  
368 obtrusive location after considering the height of the  
369 structure, topography, existing vegetation, adjoining and  
370 nearby residential properties, and visibility from the  
371 street.

372 (3) The support structure must not exceed 300 feet in height, unless  
373 it can be demonstrated that additional height up to 450 feet is  
374 needed for service, collocation, or public safety communication  
375 purposes. At the completion of construction and before the  
376 final inspection of the building permit, the applicant must  
377 submit documentation to the Department of Permitting Services  
378 as to the height and location of the support structure.

379 (4) The support structure must be sited to minimize its visual  
380 impact. The Board may require the support structure to be less  
381 visually obtrusive by use of screening, coloring, stealth design,  
382 or other visual mitigation options, after considering the height  
383 of the structure, topography, existing vegetation and  
384 environmental features, and adjoining and nearby residential  
385 properties. The support structure and any related equipment  
386 buildings or cabinets must be surrounded by landscaping or  
387 other screening options that provide a screen of at least 6 feet in  
388 height.

- 389           (5) The property owner must be an applicant for the special  
390           exception for each support structure. A modification of a radio  
391           and television station or tower special exception is not required  
392           for a change to any use within the special exception area not  
393           directly related to the special exception grant. The equipment  
394           compound must have sufficient area to accommodate  
395           equipment sheds or cabinets associated with a station or tower.
- 396           (6) No signs or illumination are permitted on the antennas or  
397           support structure unless required by the Federal  
398           Communications Commission, the Federal Aviation  
399           Administration, or the County.
- 400           (7) Every freestanding radio and television broadcasting tower  
401           must be removed at the cost of the owner when no longer in use  
402           for more than 12 months.
- 403           (8) All support structures must be identified by a sign no larger  
404           than 2 square feet affixed to the support structure or any  
405           equipment building. The sign must identify the owner and the  
406           maintenance service provider of the support structure or any  
407           attached antenna and provide the telephone number of a person  
408           to contact regarding the structure. The sign must be updated  
409           and the Board of Appeals notified within 10 days of any change  
410           in ownership.
- 411           (9) Outdoor storage of equipment or other items is prohibited.
- 412           (10) Each owner of the facility is responsible for maintaining the  
413           facility, in a safe condition.
- 414           (11) The applicants for the special exception must file with the  
415           Board of Appeals a recommendation from the Transmission

416 Facility Coordinating Group regarding the tower. The  
417 recommendation must be no more than one year old.

418 (12) Prior to the Board granting any special exception for a radio  
419 and television broadcasting [station or] tower, the proposed  
420 facility must be reviewed by the County Transmission Facility  
421 Coordinating Group.

422 (b) Any radio and television broadcasting station or tower special  
423 exception application for which a public hearing was held before  
424 (ZTA Effective Date) must be decided based on the standards in effect  
425 when the application was filed.

426 (c) Any radio and television broadcasting station or tower existing as  
427 (ZTA Effective Date) is exempt from the setback and height  
428 limitations imposed by this section, and may be continued,  
429 structurally altered, reconstructed or enlarged. However any  
430 structural change, repair, addition, alteration or reconstruction of a  
431 tower existing before (ZTA Effective Date) must not result in a  
432 increase in the height of the tower above the height of the tower as it  
433 existed before (ZTA Effective Date).

434

435 **59-G-2.58. [Reserved] Telecommunications facility.**

436 (a) Any telecommunications facility must satisfy the following standards:

437 (1) A support structure must be set back from the property line as  
438 follows:

439 a. In agricultural and residential zones, a distance of one foot  
440 from the property line for every foot of height of the support  
441 structure.

442 b. In commercial and industrial zones, a distance of one-half  
443 foot from property line for every foot of height of the  
444 support structure from a property line separating the subject  
445 site from commercial or industrial zoned properties, and one  
446 foot for every foot of height of the support structure from  
447 residential or agricultural zoned properties.

448 c. The setback from a property line is measured from the base  
449 of the support structure to the perimeter property line.

450 d. The Board of Appeals may reduce the setback requirement  
451 to not less than the building setback of the applicable zone if  
452 the applicant requests a reduction and evidence indicates  
453 that a support structure can be located on the property in a  
454 less visually obtrusive location after considering the height  
455 of the structure, topography, existing vegetation, adjoining  
456 and nearby residential properties, if any, and visibility from  
457 the street.

458 (2) A support structure must be set back from any off-site dwelling  
459 as follows:

460 a. In agricultural and residential zones, a distance of 300  
461 feet.

462 b. In all other zones, one foot for every foot in height.

463 c. The setback is measured from the base of the support  
464 structure to the base of the nearest off-site dwelling.

465 d. The Board of Appeals may reduce the setback  
466 requirement in the agricultural an residential zones to a  
467 distance of one foot from an off-site residential building  
468 for every foot of height of the support structure if the

469 applicant requests a reduction and evidence indicates that  
470 a support structure can be located in a less visually  
471 obtrusive location after considering the height of the  
472 structure, topography, existing vegetation, adjoining and  
473 nearby residential properties, and visibility from the  
474 street.

475 (3) The support structure and antenna must not exceed 155 feet in  
476 height, unless it can be demonstrated that additional height up  
477 to 199 feet is needed for service, collocation, or public safety  
478 communication purposes. At the completion of construction  
479 and before the final inspection of the building permit, the  
480 applicant must submit documentation to the Department of  
481 Permitting Services as to the height and location of the support  
482 structure.

483 (4) The support structure must be sited to minimize its visual  
484 impact. The Board may require the support structure to be less  
485 visually obtrusive by use of screening, coloring, stealth design,  
486 or other visual mitigation options, after considering the height  
487 of the structure, topography, existing vegetation and  
488 environmental features, and adjoining and nearby residential  
489 properties. The support structure and any related equipment  
490 buildings or cabinets must be surrounded by landscaping or  
491 other screening options that provide a screen of at least 6 feet in  
492 height.

493 (5) The property owner must be an applicant for the special  
494 exception for each support structure. A modification of a  
495 telecommunication facility special exception is not required for

496 a change to any use within the special exception area not  
497 directly related to the special exception grant. A support  
498 structure must be constructed to hold no less than 3  
499 telecommunication carriers. The Board may approve a support  
500 structure holding less than 3 telecommunication carriers if: 1)  
501 requested by the applicant and a determination is made that  
502 collocation at the site is not essential to the public interest; and  
503 2) the Board decides that construction of a lower support  
504 structure with fewer telecommunication carriers will promote  
505 community compatibility. The equipment compound must  
506 have sufficient area to accommodate equipment sheds or  
507 cabinets associated with the telecommunication facility for all  
508 the carriers.

509 (6) No signs or illumination are permitted on the antennas or  
510 support structure unless required by the Federal  
511 Communications Commission, the Federal Aviation  
512 Administration, or the County.

513 (7) Every freestanding support structure must be removed at the  
514 cost of the owner of the telecommunication facility when the  
515 telecommunication facility is no longer in use by any  
516 telecommunication carrier for more than 12 months.

517 (8) All support structures must be identified by a sign no larger  
518 than 2 square feet affixed to the support structure or any  
519 equipment building. The sign must identify the owner and the  
520 maintenance service provider of the support structure or any  
521 attached antenna and provide the telephone number of a person  
522 to contact regarding the structure. The sign must be updated

523 and the Board of Appeals notified within 10 days of any change  
524 in ownership.

525 (9) Outdoor storage of equipment or other items is prohibited.

526 (10) Each owner of the telecommunication facility is responsible for  
527 maintaining the telecommunication facility, in a safe condition.

528 (11) The applicants for the special exception must file with the  
529 Board of Appeals a recommendation from the  
530 Telecommunications Transmission Facility Coordinating Group  
531 regarding the telecommunication facility. The recommendation  
532 must be no more than one year old.

533 (12) Prior to the Board granting any special exception for a  
534 telecommunication facility, the proposed facility must be  
535 reviewed by the County Telecommunication Transmission  
536 Facility Coordinating Group. The Board and Planning Board  
537 must make a separate, independent finding as to need and  
538 location of the facility.

539 (b) Any telecommunication facility special exception application for  
540 which a public hearing was held before November 18, 2002 must be  
541 decided based on the standards in effect when the application was  
542 filed.

543 (c) Any telecommunications facility constructed as of November 18,  
544 2002 may continue as a conforming use.

545           **Sec. 12. Effective date.** This ordinance becomes effective 20 days after the  
546 date of Council adoption.

547

548 This is a correct copy of Council action.

549

550 \_\_\_\_\_

551 Linda M. Lauer, Clerk of the Council