

Zoning Text Amendment No.: 18-02
Concerning: Telecommunications
Towers – Limited Use
Draft No. & Date: 2 – 2/7/18
Introduced: February 13, 2018
Public Hearing:
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**

Lead Sponsor: Council President at the request of the Executive

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- revise the use standards for antennas;
- revise the standards for antennas on existing structures;
- allow telecommunications towers as a limited use in certain zones; and
- generally amend telecommunications tower and cellular antenna provisions.

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

DIVISION 3.1. “Use Table”
Section 3.1.6. “Use Table”
DIVISION 3.5. “Commercial Uses”
Section 3.5.2. “Communication Facility”
Section 3.5.14. “Accessory Commercial Uses”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment or by ZTA 14-09.
[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment or text added by this amendment in addition to ZTA 14-09.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment or indicates a change from ZTA 14-09.
** * * indicates existing law unaffected by the text amendment.*

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 59-3.1 is amended as follows:**

2 **DIVISION 59-3.1. Use Table**

3 * * *

4 **Section 3.1.6. Use Table**

5 The following Use Table identifies uses allowed in each zone. Uses may be modified in Overlay zones under

6 Division 4.9.

USE OR USE GROUP	Definitions and Standards	Ag		Rural Residential				Residential									Commercial/ Residential			Employment				Industrial					
		Residential Detached		Residential Townhouse			Residential Multi-Unit			Commercial/ Residential			Employment				Industrial												
		AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10	CRN	CRT	CR	GR	NR	LSC	EOF	IL	IM	IH	
* * *																													
COMMERCIAL																													
* * *																													
Communication Facility	3.5.2																												
Cable Communications System	3.5.2.A	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	C	C	C	C	
Media Broadcast Tower	3.5.2.B	C	C	C		C	C	C	C	C	C	C				C	C	C				C		L	C	C	C	P	
Telecommunications Tower	3.5.2.C	L/C	L/C	L/C	C	C	C	C	C	C	C	C								L	L	L	L/C	L/C	L	L/C	L	L	L

7 **Key:** P = Permitted Use L = Limited Use C = Conditional Use Blank Cell = Use Not Allowed

Sec. 2. DIVISION 59-3.5 is amended as follows:

DIVISION 3.5. Commercial Uses

* * *

Section 3.5.2. Communication Facility

* * *

C. Telecommunications Tower

1. Defined

- a. Telecommunications Tower means any structure, other than a building, [providing] used to provide wireless voice, data, or image transmission within a designated service area. Telecommunications Tower [consists of] includes one or more antennas attached to a support structure, and related equipment, but does not include amateur radio antenna (see Section 3.5.14.A and Section 3.5.14.B, Amateur Radio Facility), radio or TV tower (see Section 3.5.2.B, Media Broadcast Tower), or an antenna on an existing structure (See Section 3.5.14.C, Antenna on Existing Structure).
- b. Antenna Dimension means an antenna, and any enclosure containing the antenna, in which the total combined size of the antenna within any enclosure meets the following dimensions:

<u>Standard</u>	<u>Maximum Length on Any Side (in feet)</u>	<u>Maximum Volume (in cubic feet, excluding any equipment cabinet)</u>
<u>A</u>	<u>4 feet 2 inches</u>	<u>6 cubic feet</u>
<u>B</u>	<u>4 feet 2 inches</u>	<u>46 cubic feet</u>
<u>C</u>	<u>6 feet</u>	<u>30 cubic feet</u>
<u>D</u>	<u>9 feet</u>	<u>13 cubic feet</u>
<u>E</u>	<u>15 feet</u>	<u>1 cubic foot</u>

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2. Use Standards

a. Where a Telecommunications Tower is allowed as a limited use in the Agricultural zone, Rural zone, Rural Cluster zone, Employment zones, and Industrial zones, and the Tower is not a replacement tower that complies with 59.3.5.2.C.2.b, it must satisfy the following standards:

[i. It must not be staffed.]

[ii]i. Antennas are limited to the following [types and dimensions]:

(a) an antenna that satisfies one of the Antenna Dimensions standards in Section 59.3.5.2.C.1.b

[omni-directional (whip) antennas with a maximum height of 15 feet and a maximum diameter of 3 inches];

(b) [directional or panel antennas with a maximum height of 8 feet and a maximum width of 2 feet; and

(c)] satellite or microwave dish antennas with a maximum diameter of 8 feet.

[iii]ii. Signs or illumination on the antennas or support structure are prohibited unless required by the Federal Communications Commission, the Federal Aviation Administration, or the County.

[iv]iii. In the AR, R, and RC zones, the tower must be located within an overhead transmission line right-of-way and is a maximum height of [199]179 feet. The tower must be a

55 minimum of 300 feet from any [residence] dwelling. A
56 Telecommunications Tower conditional use application
57 may be filed with the Hearing Examiner to deviate from
58 this standard.

59 [v]iv. In the LSC, IL, IM, and IH zones, the tower is a
60 maximum height of [~~199~~]179 feet with a setback of one
61 foot for every foot of height from the property lines of all
62 properties zoned Agricultural, Rural Residential, or
63 Residential.

64 [vi]y. In the GR and EOF zones, the tower is a maximum
65 height of [~~150~~]130 feet with a setback of one foot for
66 every foot of height from the property lines of all
67 properties zoned Agricultural, Rural Residential, or
68 Residential. A Telecommunications Tower conditional
69 use application may be filed with the Hearing Examiner
70 to deviate from this standard.

71 b. In the Commercial/Residential, Industrial, and Employment
72 zones, where a Telecommunications Tower is allowed as a
73 limited use and the tower would replace a pre-existing utility
74 pole, streetlight pole, or site plan approved parking lot light
75 pole, the Tower is allowed if it satisfies the following standards:

76 i. Antennas must comply with the Antenna Classification
77 Standard A under Section 59.3.5.2.C.1.b and must be
78 installed parallel with the Tower.

79 ii. The tower must be located:

80 (a) within 2 feet of the base of a pre-existing pole and
81 at the same distance from the curb line, or edge of

- 82 travel lane in an open section, as the pre-existing
83 pole in a public right-of-way;
- 84 (b) at least 10 feet from an existing building;
85 (c) outside of the roadway clear zone as determined by
86 the Department of Transportation;
87 (d) in a manner that allows for adequate sight
88 distances as determined by the Department of
89 Transportation; and
- 90 (e) in a manner that complies with streetlight
91 maintenance requirements as determined by the
92 Department of Transportation.
- 93 iii. A pre-existing streetlight or parking lot light pole must be
94 removed within 10 business days after power is activated
95 to the replacement tower, and a pre-existing utility pole
96 must be removed within 180 days after a replacement
97 utility pole is installed.
- 98 iv. The height of the tower, including any attached antennas
99 and equipment, must not exceed:
- 100 (a) for streetlights, the height of the pole that is being
101 replaced:
- 102 (1) plus 6 feet when abutting a right-of-way
103 with a paved section width of 65 feet or less;
104 or
- 105 (2) plus 15 feet when abutting a right-of-way
106 with a paved section width greater than 65
107 feet.

- 108 (b) for utility poles and parking lot lights, the height of
109 the pre-existing utility or parking lot light pole plus
110 10 feet.
- 111 v. The tower must be the same color as the pre-existing
112 pole.
- 113 vi. The tower must have no exterior wiring, except that
114 exterior wiring may be enclosed in shielded conduit on
115 wooden or utility poles.
- 116 vii. Any equipment cabinet:
- 117 (a) must not exceed a maximum volume of 12 cubic
118 feet;
- 119 (b) used to support antennas on a replacement
120 streetlight pole must be installed in the
121 Telecommunications Tower base or at ground
122 level, unless this requirement is waived by the
123 Department of Transportation;
- 124 (c) must be the same color or pattern as the pre-
125 existing Tower, except as provided in Section
126 59.3.5.2.C.2.b.vii(d);
- 127 (d) may be a stealth design approved by the
128 Department of Transportation.
- 129 viii. The tower must include a replacement streetlight, if a
130 streetlight existed on the pre-existing pole.
- 131 ix. The design of a replacement tower located in a public
132 right-of-way, including the footer and the replacement
133 streetlight, must be approved by the Department of
134 Transportation.

- 135 x. The noise level of any fans must comply with Chapter
- 136 31B.
- 137 xi. Signs or illumination on the antennas or support
- 138 structure, except a streetlight, are prohibited unless
- 139 required by the Federal Communications Commission or
- 140 the County.
- 141 xii. Each owner of antennas attached to the tower must
- 142 maintain antennas and equipment in a safe condition,
- 143 remove graffiti, and repair damage.
- 144 xiii. If a tower does not have a streetlight, the tower must be
- 145 removed at the cost of the owner of the tower when the
- 146 tower is no longer in use for more than 12 months.
- 147 Antennas and equipment must be removed at the cost of
- 148 the owner of the antenna and equipment when the
- 149 antennas and equipment are no longer in use for more
- 150 than 12 months. The Transmission Facilities
- 151 Coordinating Group must be notified within 30 days of
- 152 the removal.

153 [b]c. Where a Telecommunications Tower is allowed as a conditional
154 use, it may be permitted by the Hearing Examiner under [all
155 applicable] Section 3.5.2.C.2.a, limited use standards, Section
156 7.3.1, Conditional Use, and the following standards:

157 * * *

- 158 ii. A Telecommunications Tower must be set back [from the
- 159 property line], as measured from the base of the support
- 160 structure, as follows:

- 161 (a) A Telecommunications Tower is prohibited in any
162 scenic setback indicated in a master plan.
- 163 (b) In the Agricultural, Rural Residential, and
164 Residential Detached zones, a distance of one foot
165 for every foot of height or 300 feet from an
166 existing dwelling, whichever provides the greater
167 setback from any property line.
- 168 (c) In the Employment zones, a distance of one-half
169 foot for every foot of height [when] from the
170 property lines of abutting [Commercial/Residen-
171 tial] Commercial/Residential, Employment, or
172 Industrial zoned properties, and one foot for every
173 foot of height [when] from the property lines of
174 abutting Agricultural, Rural Residential, or
175 Residential zoned properties.
- 176 (d) The Hearing Examiner may reduce the setback
177 requirement to not less than the building setback
178 for a detached house building type in the
179 applicable zone or to a distance of one foot from
180 an off-site dwelling for every foot of height of the
181 support structure, whichever is greater, if evidence
182 indicates that a reduced setback will allow the
183 support structure to be located on the property in a
184 less visually obtrusive location than locations on-
185 site where all setback requirements can be met
186 after considering the height of the structure,
187 topography, existing vegetation, nearby residential

188 properties, and visibility from the street. A reduced
189 setback may be approved only if there is a location
190 on the property where the setback requirements
191 can be met.

- 192 iii. The maximum height of a support structure and antenna
193 is [155]135 feet, unless it can be demonstrated that
194 additional height up to [199]179 feet is needed for
195 service, collocation, or public safety communication
196 purposes. At the completion of construction, before the
197 support structure may be used to transmit any signal, and
198 before the final inspection required by the building
199 permit, the applicant must certify to DPS that the height
200 and location of the support structure conforms with the
201 height and location of the support structure on the
202 building permit.

203 * * *

204 **Section 3.5.14. Accessory Commercial Uses**

205 * * *

206 C. Antenna on Existing Structure

207 1. Defined

208 Antenna on Existing Structure means one or more antennas attached
209 to an existing support structure, including [such as] a building, a
210 transmission tower, a monopole, a light pole, a utility pole, a water
211 tank, a silo, a barn, or an overhead transmission line support structure.
212 Antenna on Existing Structure includes related equipment.

213 2. Use Standards

214 Where an Antenna on Existing Structure is allowed as a limited use, it
215 must satisfy the following standards:

- 216 a. Antennas are limited to the following types and dimensions:
- 217 i. an antenna that satisfies one of the Antenna Dimensions
218 standards in Section 59.3.5.2.C.1.b; and [omni-
219 directional (whip) antennas with a maximum height of 15
220 feet and a maximum diameter of 3 inches;
 - 221 ii. directional or panel antennas with a maximum height of 8
222 feet and a maximum width of 2 feet;
 - 223 ~~iii~~ii. satellite, radar, or microwave dish antennas with a
224 maximum diameter of 8 feet. If the building includes a
225 media broadcast studio, a dish may have a maximum
226 diameter of 22 feet[; and
 - 227 iv. small cell antennas with a maximum height of 3 feet and
228 a maximum width of 2 feet].

229 * * *

- 230 c. Associated equipment must be located in an unmanned
231 building, equipment cabinet, or equipment room in an existing
232 building.
- 233 i. An equipment building must satisfy the following
234 standards:
235 [i.](a) It is a maximum of 560 square feet in area;
236 however, a single equipment building in excess of
237 560 square feet, located at ground level, may be
238 used if:

239 ([a]1) the overall maximum square footage is
240 1,500 square feet and the maximum height is
241 12 feet;

242 ([b]2) the building is used for more than one
243 telecommunications provider operating from
244 the same monopole or tower; and

245 ([c]3) the building is reviewed by the
246 Telecommunications Transmission Facility
247 Coordinating Group under Chapter 2
248 (Section 2-58E).

249 [ii.](b) It is a maximum of 14 feet in height,
250 including the support structure for the equipment
251 building.

252 [iii.](c) If the equipment building is greater than 4
253 feet in height and is [or cabinet is at ground level]
254 in a Residential zone, or the nearest abutting
255 property is in a Residential zone, [and the
256 equipment building or cabinet is more than 4 feet
257 in height, including the support structure,] the
258 building [or cabinet] must be faced with brick or
259 other material compatible with the surrounding
260 neighborhood on all sides [and the equipment must
261 be surrounded by landscaping of at least 3 feet in
262 height].

263 ii. If an equipment cabinet and any supporting platform are
264 greater than 4 feet in height, and service an Antenna on
265 an Existing Structure that is not a utility pole, streetlight

266 pole, or site plan approved parking lot light pole, and if
267 the Existing Structure is in a Residential zone, or the
268 nearest abutting property to the Existing Structure is in a
269 Residential zone, then the equipment must be surrounded
270 by landscaping of at least 3 feet in height.

271 iii. If an equipment cabinet services an Antenna on Existing
272 Structure and the Existing Structure is a utility pole,
273 streetlight pole, or site plan approved parking lot light
274 pole, the equipment cabinet:

275 (a) must not exceed a maximum volume of 12 cubic
276 feet; and

277 (b) must be the same color or pattern as the existing
278 structure, unless it is a stealth design approved by
279 the Department of Transportation.

280 * * *

281 d. Except under Section 3.5.14.C.2.e [for a small cell antenna that
282 satisfies Section 3.5.14.C.2.a.iv], when mounted on a rooftop or
283 structure located outside of a right-of-way [on privately owned
284 land], the antenna must meet the following standards:

285 i. An antenna is prohibited:

286 (a) on any detached house, [or] duplex, or townhouse
287 building type or an accessory structure associated
288 with either building type; and

289 (b) in any scenic setback indicated in a master plan.

290 ii. An antenna and a related unmanned equipment building
291 or cabinet may be installed on a rooftop, if a building is a
292 minimum height of:

- 293 (a) [50] 35 feet in any Residential Detached, Rural
294 Residential, or Planned Unit Development zone; or
295 (b) [30] 20 feet in any Residential Multi-Unit,
296 Commercial/Residential, Employment, or
297 Industrial zone.

298 * * *

299 e. [When located at least 60 feet from a detached house or a
300 duplex building type, a small cell antenna that satisfies Section
301 3.5.14.C.2.a.iv may be installed on any existing structure, at a
302 minimum height of 15 feet, in any zone where an antenna on an
303 existing structure is allowed.]

304 An antenna classified as Standard A under Section 3.5.2.C.1.b
305 may be installed on any existing structure located in the right-
306 of-way in any zone where an antenna on an existing structure is
307 allowed, if:

- 308 i. the antenna is the same color or pattern as the existing
309 structure;
310 ii. the antenna is installed at a minimum height of 15 feet;
311 and
312 iii. the structure is at least 20 feet from a dwelling in a Rural
313 Residential, Residential, or Planned Unit Development
314 zone, and at least 10 feet from any structure in any
315 Commercial/Residential, Employment, or Industrial
316 zone.

317 * * *

318 **Sec. 4. Effective date.** This ordinance becomes effective 20 days after the
319 date of Council adoption.

320

321 This is a correct copy of Council action.

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323 _____

324 Megan Davey Limarzi, Esq.
325 Clerk of the Council