

ZTA 18-11 Telecommunications Towers – Approval Standards FACT SHEET SUMMARY

ZTA 18-11 was introduced July 27, 2018 and a public hearing is scheduled for Tuesday September 25, 2018 at 7:30 pm

- **ZTA 18-11 DOES NOT CHANGE REQUIREMENTS FOR TALL (e.g., 100 ft tall) TELECOMMUNICATIONS TOWERS**
 - In residential areas, these macro towers continue to require a 300 foot setback, Conditional Use approval, and an Office of Zoning and Administrative Hearing (OZAH) Hearing Examiner’s approval may be appealed to the Board of Appeals

- **DIFFERENCE BETWEEN LIMITED AND CONDITIONAL USE FOR TELECOMMUNICATIONS TOWERS**
 - Both types of uses require a Transmission Facility Coordinating Group (TFCG or Tower Committee) recommendation and Department of Permitting Services (DPS) building or right-of-way permit. Post-installation, DPS will inspect work performed to enforce code compliance
 - Conditional Use will also require approval from OZAH. After OZAH and Planning Department staff have determined an application is complete, OZAH will schedule a public hearing and provide public notice of the hearing to properties near the proposed telecommunications tower
 - Limited Use is non-discretionary – standards are specified, TFCG reviews an application for compliance, and DPS provides code enforcement. Conditional Use includes discretionary review – OZAH reviews the pole location and has discretion to adjust setback distances and design color to make the replacement telecommunications tower less visually obtrusive

- **ZTA 18-11 WOULD ALLOW REPLACEMENT OF TALLER PRE-EXISTING POLES AS LIMITED USE TELECOMMUNICATIONS TOWERS IN RESIDENTIAL AREAS. TO QUALIFY FOR LIMITED USE:**
 - Pre-existing Streetlight, utility or site plan-approved parking lot light poles would qualify as “pre-existing poles” – simple street signs without lights, and traffic signals are not included. Pre-existing poles would be replaced with new replacement poles at the same location.
 - Pre-existing poles must be taller than 22 feet and at least 30 feet from houses
 - The height of a replacement structure would be limited to 6 additional feet for streetlights and 10 additional feet for utility poles
 - Additional minimal height increased would be allowed for utility poles to comply with safety code
 - New antennas could also be attached to pre-existing poles, if the pole is 30 feet from houses
 - New antennas could be installed on building roofs or facades if the building is a minimum of 35 feet (three stories), and the building is a minimum of 10 feet from a single family detached house, duplex or townhouse

- **ZTA 18-11 WOULD ALLOW REPLACEMENT OF PRE-EXISTING POLES AS CONDITIONAL USE TELECOMMUNICATIONS TOWERS IN RESIDENTIAL AREAS**
 - A Conditional Use would be required for replacement of shorter pre-existing poles because the visual impact would be greater than when a shorter pole is replace -- this is especially so in neighborhoods where there are underground utilities, no tall utility poles, and 14-foot tall streetlights in the right-of-way
 - OZAH approval and a public hearing is required for replacement of shorter pre-existing poles to provide more notice to nearby properties and the opportunity for public hearing before the Hearing Examiner
 - Conditional Use can be used to replace existing streetlight light poles shorter than 22 feet tall and at least 30 feet from houses
 - The Replacement pole is limited to 22 feet (8 foot increase)
 - The Hearing Examiner
 - Must find that the proposed preplacement pole is compatible with, or can be made compatible with, nearby residential property by the use of screening, coloring, stealth design, or other visual mitigation options after considering the height of the structure,
 - Review to determine this is the least visually obtrusive pole within 400 feet
 - Reduce the setback to 10 feet if there is no other pole available within 800 feet that meets a 30 foot setback
 - Allow a use of a different color paint than the pre-existing pole and require other screening to make the pole less visually obtrusive

- **ZTA 18-11 AMENDS OZAH CONDITIONAL USE REVIEW FOR REPLACEMENT OF PRE-EXISTING POLES AS CONDITIONAL USE**
 - The Hearing Examiner must find that the tower is compatible with nearby residential property and is located to minimize its visual impact. Small cells have a service range of about a 350 ft radius; thus, the Hearing Examiner will review an area of 400 feet to determine compatibility
 - Removes oral appeal to Board of Appeals of Hearing Examiner’s decision
 - This is needed to help County meet federal shot clock and prevent preemptory zoning approvals under federal law (“deemed granted”)
 - Decision can still be appealed to Circuit Court

- **OTHER CHANGES AND CLARIFICATIONS**
 - Equipment size increased from 12 cubic feet to 20 cubic feet for equipment in pole base
 - The setback is measured from the pole to the building/house, and excludes porches and similar permitted setback encroachments
 - An antenna does not count towards building height

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ADDITIONAL BACKGROUND INFORMATION

REPLACEMENT POLES AS LIMITED USE IN RESIDENTIAL AREAS (Streetlight, Utility, and Parking Lot Light Poles)

- New ZTA will allow these poles to be replaced as **Limited Use if the poles are taller than 22 feet and are 30 feet from homes** in Residential Detached, Rural Residential, and Agricultural zones.
 - Sample research determined the 30 foot set back can be met in almost all cases.
 - ZTA 18-02 changed code to allow these poles to be replaced as Limited Use if they are 10 feet from buildings in Commercial/Residential, Employment and Industrial Zones (no minimum height requirement).
 - Height of a replacement structure would be limited to 6 additional feet for streetlights and 10 additional feet for utility poles; however, additional minimum height would be permitted to comply with National Electric Safety Code.
- **Setback for Attachments to Existing Poles.** New ZTA 18-11 reduces setbacks in residential areas from 60 feet to 30 feet (to use existing utility poles).
- **Minimum Height for Buildings.** New ZTA 18-11 lowers the minimum building height for buildings that can be used to attach antennas to, from 50 feet to 35 feet in residential areas.
 - **Facades.** New ZTA also changes minimum building heights for attaching to building facades to same as using building roofs – 35 feet in residential; 20 in commercial areas.
 - **Setback.** New ZTA adds requirement that the building used to attach antennas to, must be 10 feet from a house, duplex or townhouse. This minimum setback was added to address residents' concerns about increase of commercial structures like group/assisted living homes in residential areas.

REPLACEMENT POLES AS CONDITIONAL USE IN RESIDENTIAL AREAS (Streetlight Poles)

- New ZTA will **allow replacement poles as Conditional Use if the pre-existing pole is less than 22 feet in height** in Residential Detached, Rural Residential, and Agricultural zones (these shorter poles are typically in neighborhoods with underground utilities).
 - Maximum height for new replacement pole would be 22 feet (typically, existing pole is 14 feet tall – *i.e.*, new 8 foot increase allowed; this is more than 6 foot increase allowed for taller poles as Limited Use, but taller poles do not need to get much taller to support small cells
 - 30 foot set back but Hearing Examiner can reduce to 10 feet if there are no poles nearby that can meet 30 foot set back. This is a safety value to ensure the County does not prohibit provision of service, but there are very few instances where a pole that meets the 30 foot setback cannot be found.
 - Setbacks can also be reduced by Hearing Examiner to 10 feet if it will make the new telecommunications tower less visually obtrusive.

OZAH CONDITIONAL USE PROCESS CHANGES

- **Compatibility.** Narrows what OZAH Hearing Examiner must look at to determine compatibility.
 - The Hearing Examiner “must find that the proposed preplacement pole is compatible with, or can be made compatible with, nearby residential property by the use of screening, coloring, stealth design, or other visual mitigation options after considering the height of the structure, topography, existing vegetation and environmental features.”
 - Small cell antennas for mobile phones have a limited service range of about a 350 foot radius, so there is a limited area in which an alternate location or pole could be selected.
 - Thus, to determine compatibility, the Hearing Examiner will consider “within 400 feet, the character of residential properties, proximity to nearby residences, tree coverage, and design of other streetlight, utility and parking lot light poles.”
- **Appeal to Board of Appeals Removed.** Board of Appeals does not oppose this change for a narrow class of decisions in the interest of complying with the federal shot clocks.
 - County action would be final after Hearing Examiner issues decision, and decisions can be appealed to court instead of oral argument to Board of Appeals.
 - Most decisions will involve adding 8 feet to an existing streetlight.
 - The Federal Communications Commission is proposing to reduce the period of time to review new replacement pole installations subject to conditional review from 150 days to 90 days. Making the Hearing Examiner’s decision final action by the County, will enable retention of Conditional Use for replacement poles in residential areas.

OTHER CHANGES AND CLARIFICATIONS

- Equipment size was changed to 12 cubic feet in ZTA 18-02. New ZTA keeps 12 cubic feet for equipment on pole and increases to 20 cubic feet for equipment in base. Department of Transportation (DOT) retains authority to approve having equipment on pole instead of in base. Additional size increase for base is necessary to allow hardening of base (*e.g.*, to prevent damage from vandalism).
- Building height and setback calculations are amended so that antennas are treated similar to porches and do not count in setback limits.
- Antennas would not count toward building height, similar to solar panels.