

Zoning Text Amendment No.: 17-XX
Concerning: Telecommunications
Towers – Limited Use
Draft No. & Date:
Introduced:
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:

- allow telecommunications towers as a limited use under certain circumstances;
- revise the use standards for small cell antennas;
- revise the standards for antennas on existing structures;
- allow telecommunications towers in public rights-of-way and on private property in residential, commercial/residential, industrial, employment and planned unit development zones as a limited use; and
- generally amend telecommunications tower and cell antenna provisions.

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

DIVISION 59-3.1. “Use Table”
Section 3.1.6. “Use Table”
DIVISION 59-3.5. “Commercial Uses”
Section 3.5.2. “Communication Facility”
Section 3.5.14 “Accessory Commercial Uses”
DIVISION 59-8.3 “Planned Unit Development Zones”
Section 59-8.3.2. “PD Zone”
Section 59-8.3.3. “T-S Zone”
Section 59-8.3.4. “Planned Neighborhood Zone”
Section 59-8.3.5. “Planned Retirement Zone”
Section 59-8.3.6. “Planned Cultural Center Zone”

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:

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

Telecommunications Tower means any structure other than a building, providing 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).

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, it must satisfy the following standards:

i. It must not be staffed.

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

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

- 35 (b) directional or panel antennas and any enclosure
36 with a combined maximum height of [8] 9 feet and
37 a maximum [width of 2 feet] total volume of 9
38 cubic feet;
- 39 (c) box-shaped antennas and any enclosure with a
40 maximum height on any side of 4 feet and a
41 combined maximum total volume of 46 cubic feet;
- 42 (d) small antennas enclosed in a canister with a
43 combined maximum height of 4 feet and a
44 maximum total volume of 15 cubic feet;
- 45 (e) small antennas enclosed in a panel with a
46 combined maximum height of 2.5 feet and a
47 maximum total volume of 2.5 cubic feet; and
- 48 ([c]f) satellite or microwave dish antennas with a
49 maximum diameter of 8 feet.
- 50 iii. Signs or illumination on the antennas or support structure
51 are prohibited unless required by the Federal
52 Communications Commission, the Federal Aviation
53 Administration, or the County.
- 54 iv. In the AR, R, and RC zones, the tower must be located
55 within an overhead transmission line right-of-way and is
56 a maximum height of 199 feet. The tower must be a
57 minimum of 300 feet from any residence. A
58 Telecommunications Tower conditional use application
59 may be filed with the Hearing Examiner to deviate from
60 this standard.

- 61 v. In the LSC, IL, IM, IH₂ zones, the tower is a maximum
62 height of 199 feet with a setback of one foot for every
63 foot of height from all properties zoned Agricultural,
64 Rural Residential, or Residential.
- 65 vi. In the GR and EOF zones, the tower is a maximum
66 height of 150 feet with a setback of one foot for every
67 foot of height from all properties zoned Agricultural,
68 Rural Residential, or Residential. A Telecommunications
69 Tower conditional use application may be filed with the
70 Hearing Examiner to deviate from this standard.
- 71 b. Where a Telecommunications Tower is allowed as a limited use
72 in the Residential, Rural Neighborhood Cluster, Neighborhood
73 Retail, Commercial/Residential, and Planned Unit Development
74 zones, it must satisfy the following standards:
- 75 i. Antennas are limited to the following types and
76 dimensions:
- 77 (a) small antennas enclosed in a canister with a
78 combined maximum height of 4 feet and a
79 maximum total volume of 15 cubic feet; and
- 80 (b) small antennas enclosed in a panel with a
81 combined maximum height of 2.5 feet and a
82 maximum total volume of 2.5 cubic feet.
- 83 ii. The tower must replace a pre-existing utility pole, street
84 light pole, or parking lot light pole, and be located:
- 85 (A) in a public right-of-way, or on private property in a
86 Commercial/Residential, Employment, or
87 Industrial zone;

88 (B) within 2 feet of the base of the pre-existing pole
89 and at the same distance from the curb line as the
90 pre-existing pole in a public right-of-way;

91 (C) outside of the roadside clear zone;

92 (D) in a manner that allows for adequate sight
93 distances as determined by the Department of
94 Transportation; and

95 (E) the pre-existing pole must be removed within 10
96 business days after the installation of the
97 replacement tower.

98 iii The height of the structure, including the antennas, must
99 not exceed when:

100 (A) abutting rights-of-way with a paved section width
101 of less than 30 feet, the height of the pole that is
102 being replaced, plus 5 feet;

103 (B) abutting rights-of-way with a paved section width
104 of greater than 30 feet but less than 60 feet, the
105 height of the pole that is being replaced, plus 10
106 feet;

107 (C) abutting rights-of-way with a paved section width
108 of greater than 60 feet, a maximum height of 45
109 feet; or

110 (D) on private property, the height of the pole that is
111 being replaced, plus 10 feet.

112 iv. The tower must have no exterior wiring and must be the
113 same color as the nearest pre-existing pole; except that

114 exterior wiring may be enclosed in shielded conduit on
115 wooden poles.

116 v. Any equipment cabinet:

117 (A) must not exceed a maximum volume of 12
118 cubic feet and a maximum width of 2 feet if
119 installed above ground on a pole;

120 (B) must be painted or screened to be the same
121 color or design of the pre-existing structure;

122 (C) must be at the base of any tower 20 feet or
123 less in height; and

124 (D) must be placed at the base or at a height of
125 at least 10 feet above ground on any tower
126 greater than 20 feet in height.¹

127 vi. The tower must include a replacement street light, if a
128 street light existed on the pre-existing pole;

129 vii. The design of a replacement tower located in a public
130 right-of-way, including the footer and the replacement
131 street light, must be approved by the Department of
132 Transportation.

133 viii. The antenna and equipment must be passively cooled.

134 ix. The tower must not be staffed.

135 x. Signs or illumination on the antennas or support
136 structure, excepting a street light, are prohibited unless
137 required by the Federal Communications Commission,
138 the Federal Aviation Administration, or the County.

¹ This section is under review.

139 xi. Each owner of the tower must accept responsibility for
140 maintaining the tower in a safe condition.

141 xii. The tower must be removed at the cost of the owner of
142 the tower when the tower is no longer in use for more
143 than 12 months. The Transmission Facilities
144 Coordinating Group must be notified within 30 days of
145 removal.

146 [b]c. Where a Telecommunications Tower is allowed as a conditional
147 use, it may be permitted by the Hearing Examiner under all
148 applicable limited use standards, Section 7.3.1, Conditional
149 Use, and the following standards:

150 * * *

151 ii. A Telecommunications Tower must be set back from the
152 property line, as measured from the base of the support structure, as
153 follows:

154 (a) A Telecommunications Tower is prohibited in any scenic
155 setback indicated in a master plan.

156 (b) In the Agricultural, Rural Residential, and Residential
157 Detached zones, a distance of one foot for every foot of
158 height [or 300 feet from an existing dwelling, whichever
159 provides the greater setback].

160 (c) In the Employment zones, a distance of one-half foot for
161 every foot of height when abutting
162 Commercial/Residential, Employment, or Industrial
163 zoned properties, and one foot for every foot of height
164 when abutting Agricultural, Rural Residential, [or]

165 Residential, RT, R-H, or Planned Unit Development
166 zoned properties.

167 * * *

168 **Section 3.5.14. Accessory Commercial Uses**

169 * * *

170 C. Antenna on Existing Structure

171 1. Defined

172 Antenna on Existing Structure means one or more antennas attached to an
173 existing support structure, such as a building, a transmission tower, a
174 monopole, a light pole, a water tank, a silo, a barn, or an overhead
175 transmission line support structure. Antenna on Existing Structure includes
176 related equipment.

177 2. Use Standards

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

180 a. Antennas are limited to the following types and dimensions:

181 i. omni-directional (whip) antennas with a maximum height of 15
182 feet and a maximum diameter of 3 inches;

183 ii. directional or panel antennas and any enclosure with a
184 maximum height of [8] 9 feet and a combined maximum [width
185 of 2 feet] total volume of 9 cubic feet;

186 iii. box-shaped antennas and any enclosure with a combined
187 maximum height on any side of 4 feet and a maximum total
188 volume of 46 cubic feet;

189 iv. small antennas enclosed in a canister with a combined
190 maximum height of 4 feet and a maximum total volume of 15
191 cubic feet;

- 192 v. small antennas enclosed in a panel with a combined maximum
193 height of 2.5 feet and a maximum total volume of 2.5 cubic
194 feet; and
- 195 [iii]vi. satellite or microwave dish antennas with a maximum diameter
196 of 8 feet.]; and]
- 197 [iv. small cell antennas with a maximum height of 3 feet and a
198 maximum width of 2 feet.]
- 199 * * *
- 200 c. For an antenna on an existing structure that is 60 feet or greater in
201 height, a[A]ssociated equipment must be located in an unmanned
202 building, equipment cabinet, or equipment room in an existing
203 building. An equipment building must satisfy the following standards:
- 204 * * *
- 205 d. For an antenna on an existing structure that is less than 60 feet in
206 height, associated equipment must be located in an equipment cabinet
207 or equipment room in an existing building. An equipment cabinet
208 must satisfy the following standards:
- 209 i. it is a maximum volume of 12 cubic feet; and
210 ii. it is painted, or screened by material that is, the same
211 color or design as the existing structure.
- 212 [d]e. Except as provided in Section 3.5.14.C.2.f, [for a small cell antenna
213 that satisfies Section 3.5.14.C.2.a.iv] when mounted on a rooftop or
214 structure located on privately owned land, the antenna must meet the
215 following standards:
- 216 i. An antenna is prohibited:

- 217 (A) on any detached house, [or] duplex, or townhouse
218 building type or an accessory structure associated
219 with either building type; and
- 220 (B) in any scenic setback indicated in a master plan.
- 221 ii. An antenna and a related unmanned equipment building
222 or cabinet may be installed on a rooftop if a building is a
223 minimum height of:
- 224 (A) [50] 35 feet in any Residential Detached, Rural
225 Residential, or Planned Unit Development zone; or
- 226 (B) [30] 20 feet in any Residential Multi-Unit,
227 Commercial/Residential, Employment, [or]
228 Industrial zone.
- 229 iii. An antenna may be mounted on the facade of a building
230 if mounted at least 15 feet above ground level on a
231 building [at] that is a minimum height of:
- 232 (A) [50]35 feet in [a]any Residential Detached, Rural
233 Residential, or Planned Unit Development zone; or
- 234 (B) [30]20 feet in any Residential Multi-Unit,
235 Commercial/Residential, Employment, [and]
236 Industrial zone.
- 237 [e]f. [When located at least 60 feet from a detached house or a duplex
238 building type, a small cell antenna that satisfies Section
239 3.5.14.C.2.a.iv may be installed on any existing structure, at a
240 minimum height of 15 feet, in any zone where an antenna on an
241 existing structure is allowed.] In any Residential Multi-Unit,
242 Commercial/Residential, Employment, Industrial, or Planned Unit
243 Development zone:

- 244 i. on a building at least 20 feet in height, a box or small
- 245 antenna that satisfies Section 3.5.14.C.2.a.iii-v and
- 246 related equipment that satisfies Section 3.5.14.C.2.d, may
- 247 be installed if the antenna is mounted at least 15 feet
- 248 above ground level and:
- 249 (A) a box antenna is screened the same color or design
- 250 of the existing structure; or
- 251 (B) a small antenna is painted or screened the same
- 252 color or design of the existing structure; and
- 253 ii. on a building at least 15 feet in height, a small antenna
- 254 that satisfies Section 3.5.14.C.2.a.iv-v and related
- 255 equipment that satisfies Section 3.5.14.C.2.d, may be
- 256 installed if the antenna is mounted at least 15 feet above
- 257 ground level and the small antenna is painted, or
- 258 screened by material that is, the same color or design of
- 259 the existing structure.

260 * * *

261 **Sec. 3. DIVISION 59-8.3 is amended as follows:**

262 **DIVISION 8.3. Planned Unit Development Zones**

263 * * *

264 **Section 8.3.2 PD Zone**

265 **B. Uses**

266 * * *

267 **3. Other Uses**

268 Property located in a PD zone may also be used for:

- 269 a. a noncommercial community recreational facility for the exclusive use
- 270 of the residents of the development and their guests;

- 271 b. a nonresidential, noncommercial use if the District Council finds that
272 it is compatible with the planned development and satisfies the compatibility
273 requirements of Section 8.3.2.D.
- 274 c. a Cable Communications System as a conditional use under Section
275 3.5.2.A; or
- 276 d. any conditional use allowed in the R-90 zone, as shown in the use
277 table in Section 3.1.6 if the District Council finds that the use meets any applicable
278 use standard in Article 59-3 and satisfies the findings for conditional use approval
279 under Section 7.3.1.E. If the use is proposed after the District Council has
280 approved the development plan, a petition for a conditional use must be filed with
281 the Hearing Examiner. The Hearing Examiner may approve the conditional use if it
282 finds the use is:
- 283 i. consistent with the design standards of the development plan;
284 and
- 285 ii. satisfies the applicable use standards in Article 59-3 and the
286 requirements of Section 7.3.1.E; or
- 287 iii. not consistent with the design standards of the development
288 plan, but the approval is contingent on the District Council's
289 approval of an amendment to the development plan that
290 incorporates the conditional use.
- 291 e. an Antenna on an Existing Structure and related unmanned equipment
292 building, equipment cabinet, or equipment room under Section
293 3.5.14.C.
- 294 f. A Telecommunications Tower that satisfies 3.5.2.C.2.b, including any
295 antennas, is allowed as a limited use and a site plan amendment is not
296 required.

297 * * *

298 **Section 8.3.3. T-S Zone**

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300 **B. Land Uses**

301 1. A use described on the approved development plan is allowed by right
302 in the T-S zone.

303 2. All uses authorized in any zone, by right or as conditional uses, may
304 also be authorized in the T-S zone if the use is shown on the approved
305 site plan or the site plan is first amended under Section 7.3.4.J.

306 3. An amendment to the site plan is not required for construction of
307 accessory buildings and additions or modifications to existing
308 detached houses, townhouses, and accessory buildings if:

309 a. the Planning Board has approved homeowners association
310 documents establishing a procedure to review such
311 development prior to construction; and

312 b. the development is approved under this procedure.

313 4. No use may occupy a location other than indicated on the approved
314 site plan.

315 * * *

316 6. An Antenna on an Existing Structure that satisfies the limited use
317 standards in Section. 3.5.14.C is allowed.

318 7. A Telecommunications Tower that satisfies 3.5.2.C.2.b, including any
319 antennas, is allowed as a limited use.

320 8. Privately owned roads and community open spaces may be held in
321 perpetuity by the developer or by an approved [home owners]
322 homeowners association with substantial membership and duration if
323 the Planning Board approves easements for such uses granted to the
324 County and recorded in the land records of the County.

325 [8] 9. All utility lines in the T-S zone must be placed underground. The
326 developer or subdivider must ensure final and proper completion and
327 installation of utility lines under Section 50-40(c). The developer must
328 provide street lighting satisfying the standards contained in the
329 approved site plan. A use-and-occupancy permit must not be issued
330 for any building [which is] not served by an approved sewer and water
331 supply.

332 * * *

333 **Section 8.3.4. Planned Neighborhood Zone**

334 * * *

335 **B. Land Uses**

336 Each use, except any transitory use, must be shown on the development plan
337 for the PNZ zone. A development in the PNZ zone may include:

- 338 1. a detached house used for:
 - 339 a. Single-Unit Living;
 - 340 b. professional office for the practice of medicine, dentistry, law,
341 accounting, or architecture by a resident of the dwelling, incidental to
342 its principal use as a dwelling, and with the assistance of only one
343 nonresident;
 - 344 c. any other permitted or limited use allowed in the R-90 zone under
345 Article 59-3; or
 - 346 d. any conditional use allowed in the R-90 zone under Article 59-3,
347 which must also satisfy Section 7.3.1;
- 348 2. an apartment used for:
 - 349 a. Household Living, up to the maximum number of units indicated on
350 the site plan;

- 351 b. an office for the rental, operation, service, and maintenance of an
- 352 apartment building or group of buildings;
- 353 c. any other permitted or limited use in the R-30 zone under Article 59-
- 354 3; or
- 355 d. any conditional use allowed in the R-30 zone under Article 59-3,
- 356 which must also satisfy Section 7.3.1;
- 357 3. any commercial use allowed in the NR zone under Article 59-3,
- 358 except a Recreational and Entertainment Facility, located on a
- 359 property of no more than 15 acres at any one location if:
- 360 a. a market analysis of the local trade area, filed as a part of the
- 361 development plan, indicates a need for the amount of commercial use
- 362 proposed; and
- 363 b. the adopted master plan recommends commercial use within the area
- 364 covered by the application; or
- 365 c. there are inadequate local shopping areas, either existing or proposed
- 366 on a master plan, within a reasonable distance and with reasonable
- 367 access from the site;
- 368 4. an Antenna on an Existing Structure that satisfies the limited use
- 369 standards in Section 3.5.14.C;
- 370 5. a Transitory Use that satisfies the limited use standards in Section
- 371 3.5.15.C;
- 372 6. an Independent Living Facility for Seniors or Persons with
- 373 Disabilities; or
- 374 7. utility lines, which must be placed underground. The developer or
- 375 subdivider must ensure final and proper completion and installation of
- 376 utility lines as provided in Chapter 50 (Section 50-40(c)). The

377 developer must provide street light standards that satisfy the approved
378 site plan.

379 8. A Telecommunications Tower that satisfies 3.5.2.C.2.b, including any
380 antennas, is allowed as a limited use.

381 * * *

382 **Section 8.3.5. Planned Retirement Community Zone**

383 * * *

384 **B. Land Uses**

385 * * *

386 5. A Telecommunications Tower that satisfies 3.5.2.C.2.b, including any
387 antennas, is allowed as a limited use and no amendment to the
388 development plan is required.

389 * * *

390 **Section 8.3.6. Planned Cultural Center Zone**

391 * * *

392 **B. Uses**

393 * * *

394 2. If the District Council finds that a specific supplemental use would be
395 compatible with the cultural uses proposed on the site and will not
396 adversely affect surrounding uses because of traffic or other factors,
397 the development may include:

- 398 a. an accessory building and use;
- 399 b. a caretaker's residence or apartment;
- 400 c. a child day care facility, limited to children of persons employed by or
401 using the cultural arts facilities;
- 402 d. a community activities building;

- 403 e. a detached house constructed prior to property being classified in the
- 404 zone;
- 405 f. a restaurant;
- 406 g. a hotel/motel with no more than 30 guest rooms or suites;
- 407 h. a meeting room and conference facility for the arts;
- 408 i. a publicly owned or publicly operated use;
- 409 j. a residence hall for persons associated with cultural arts uses on the
- 410 site;
- 411 k. an antenna on an existing structure under Section 3.5.14.C;
- 412 l. a retail establishment for the sale of materials or works of art
- 413 produced on the premises; and
- 414 m. a workshop used for the construction of scenery and props for use on
- 415 site or for sale to other theatrical productions.
- 416 n. A Telecommunications Tower that satisfies 3.5.2.C.2.b, including any
- 417 antennas, is allowed as a limited use and no site plan is required.

418

419 **Sec. 4. Effective date.** This ordinance becomes effective 20 days after

420 approval.

421

422 This is a correct copy of Council action.

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424 _____

425 Linda M. Lauer, Clerk of the Council