By: Councilmember Praisner

AN ACT to:

(1) authorize the County to charge fees for reviewing and coordinating the siting of telecommunications transmission facilities in the County and set initial fees; and

(2) generally amend County law regarding telecommunications transmission facilities coordination.

By amending

Montgomery County Code
Chapter 2, Administration
Section 2-58E

The County Council for Montgomery County, Maryland approves the following Act:
Section 1. Section 2-58E of the Code is amended as follows:

2-58E. Telecommunications facility coordination.

(a) The Director of the Department of Information Systems and Telecommunications, acting through a designee or by a contract with any private party, must set up a process to coordinate the location of public and private telecommunications transmission facilities in the County. The County Executive must adopt regulations under method (2) to implement this process, including time limits for any review of a siting decision by the Director's designee or contractor or the Telecommunications Transmission Facility Coordinating Group. The Executive may adopt regulations under method (3) to set fees for reviewing and coordinating the siting of each proposed telecommunications transmission facility that requires a building permit, special exception, or other County approval. The regulations may set different fees for certain categories of applicants to reflect different costs to the County to review and coordinate the siting of facilities by that type of applicant. The Executive must establish, and may modify, fee categories by method (2) regulation.

(b) As used in this Section:

(1) *telecommunications transmission facility* means any antenna, tower, monopole, or other structure used primarily to receive or transmit wireless voice, data, or image information (or any combination of them):

(2) *land use agency* means the Planning Board, the County Board of Appeals, the Department of Environmental Protection, and any other public agency or body with jurisdiction over the siting of
any telecommunications transmission facility, including any
municipal land use agency or body; and

(3) *land-owning agency* means any government agency which owns
or controls any land on which a telecommunications transmission
facility is located or proposed to be located.

(c) As part of the coordination process set up under subsection (a), the
Director's designee or contractor must:

(1) maintain a database of all telecommunications transmission
facilities located in the County, including any that the Director
knows are proposed to be located in the County;

(2) serve as a central source of information and a technical resource
on the siting of telecommunications transmission facilities for
land use agencies, land-owning agencies, private landowners,
telecommunications carriers, and the public;

(3) in order to promote the appropriate and efficient location and co-
location of telecommunications transmission facilities and
minimize any adverse impact on other land uses in the County
and on telecommunications transmission facilities used by
government agencies:

(A) review the siting of each proposed telecommunications
transmission facility;

(B) advise any land use agency or land-owning agency on the
technical rationale at that location for any
telecommunications transmission facility and whether it
qualifies under County land use laws as a public or private
use; and
(C) recommend to any land use agency a decision on any pending siting issue, including any appropriate provisions governing removal of the facility after its useful life concludes and the posting of a bond to guarantee removal;

(4) assist public participation in the process of siting telecommunications transmission facilities; and

(5) report annually to the County Executive and County Council on telecommunications transmission facility siting and policy issues.

(d) (1) The Director must convene a Telecommunications Transmission Facility Coordinating Group and select a chair from among its members. The Group consists of the Director's designee or contractor and a designee of:

(A) the Maryland-National Capital Park and Planning Commission;

(B) the Office of Management and Budget;

(C) the cable television administrator in the Office of Consumer Affairs;

(D) the Department of Public Works and Transportation;

(E) the Department of Environmental Protection; and

(F) any other County, bi-county, or municipal department or agency which the Director invites to send a designee.

(2) The Group must:

(A) review and comment, with due regard for the schedule in any pending action or proceeding, on any pending telecommunications transmission facility policy or siting issue; and
(B) facilitate communications between the member agencies on transmission facility policy and siting issues. The Group's comments in any quasi-judicial proceeding must be placed on the proceeding record and made available to all parties.

(e) Each land-owning agency in County government, and any other land-owning agency which receives County funding, must submit to the Director a telecommunications transmission facility location plan. The plan must clearly indicate the location of every existing and the general location of any proposed telecommunications transmission facility on land owned or controlled by the department or agency. The department or agency must update the plan each year.

(f) Every applicant for a building permit or special exception for a telecommunications transmission facility must submit to the Director a telecommunications transmission facility location plan if a plan from the applicant is not already on file. The plan must clearly indicate the location of every existing and the general location of any proposed telecommunications transmission facility owned or controlled by the applicant. The applicant must update the plan each year. The Director must not disclose any information in the plan which qualifies as confidential under the state public information law to any person except the Director's designee or contractor and the other members of the Telecommunications Transmission Facility Coordinating Group, and they must not disclose any such information to any other person.
Sec. 2. Initial [(fee)] fees.

[(The initial fee authorized by)] Until modified or superseded by a regulation issued under Section 2-58E(a) of the Code, as amended by this Act, [(is $10,000.)] the initial fees and fee categories authorized by that Section are:

(a) **Annual fee.** $1,000 a year, for reviewing each applicant’s annual plan and providing access to certain County Geographic Information Service (GIS) data about existing telecommunications transmission facility sites.

(b) **Minor modification.** $500, for reviewing an application to take any of the following actions at a single site:

1. modify one or more existing antennas;
2. add an antenna that would not alter the dimensions of the support structure; or
3. modify or add equipment that would not expand the approved ground space.

(c) **Multiple modification.** $1,500, for reviewing an application to modify, or replace with a similar item, an antenna or equipment at 2 or more existing sites in a manner that would not change the support structure or the ground occupied by the telecommunications facility or require any other County approval.

(d) **Co-location on existing structure.** $1,800, for reviewing an application to install additional antennas on an existing support structure in a zone where the structure is a permitted use under Chapter 59.

(e) **New support structure – permitted use.** $2,500, for reviewing an application to construct a new support structure where permitted by Chapter 59.
(f) **New support structure – special exception.** $3,000, for reviewing an application to construct a new or modified support structure that would require, under Chapter 59:

1. approval or modification of a special exception; or
2. review under the mandatory referral process.

Approved:

/S/     July 31, 2002
Steven A. Silverman, President, County Council

Approved:

/S/     August 7, 2002
Douglas M. Duncan, County Executive

This is a correct copy of Council action.

/S/     August 9, 2002
Mary A. Edgar, CMC, Clerk of the Council