MEMORANDUM

June 10, 2016

TO: County Council

FROM: Jeffrey L. Zyontz, Senior Legislative Analyst

SUBJECT: Introduction – Zoning Text Amendment 16-05, Telecommunications Towers – Limited Use

Zoning Text Amendment (ZTA) 16-05, scheduled for introduction on June 14, 2016, would allow poles (within the Zoning Ordinance’s definition of Telecommunications Towers) no higher than 30 feet in various zones as a limited use. Council President Floreen is the lead sponsor of ZTA 16-05.

As people “cut the cord” from the traditional wired telephone and use their cell phones for far more than voice communication, there is a greater demand for wireless services in residential areas. The telecommunications industry can meet this need with small antennas on short poles. This new equipment cannot be supported on existing street lights. Some neighborhoods have underground utilities without utility poles. The current Zoning Ordinance requires a conditional use approval for every new pole, no matter how short the pole. Council President Floreen believes that the Council should set the standards for these structures instead of subjecting each pole to the conditional use process.

A public hearing is scheduled for July 19, 2016 at 1:30 p.m.
AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow short telecommunications towers as a limited use under certain circumstance;
- revise the use standards for small cell antennas;
- allow short telecommunications towers in public rights-of-way in the RNC, TS, and residential detached zones as a limited use; and
- generally amend telecommunications tower and small 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 59-8.3.3. “T-S Zone”
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. 1. DIVISION 59-3.1 is amended as follows:

DIVISION 59-3.1. Use Table

* * *

Section 3.1.6. Use Table

The following Use Table identifies uses allowed in each zone. Uses may be modified in Overlay zones under Division 4.9.

<table>
<thead>
<tr>
<th>USE OR USE GROUP</th>
<th>Definitions and Standards</th>
<th>Rural Residential</th>
<th>Residential Detached</th>
<th>Residential Townhouse</th>
<th>Residential Multi-Unit</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>R</td>
<td>RC</td>
<td>RNC</td>
<td>RE-2</td>
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<td>* * *</td>
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<tr>
<td>COMMERCIAL</td>
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<td></td>
</tr>
<tr>
<td>Animal Services</td>
<td>3.5.1</td>
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<tr>
<td>Animal Boarding and Care</td>
<td>3.5.1.B</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
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<tr>
<td>Veterinary Office/Hospital</td>
<td>3.5.1.C</td>
<td>C</td>
<td>C</td>
<td>C</td>
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<tr>
<td>Communication Facility</td>
<td>3.5.2</td>
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<td></td>
<td></td>
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<tr>
<td>Cable Communications System</td>
<td>3.5.2.A</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Media Broadcast Tower</td>
<td>3.5.2.B</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Telecommunications Tower</td>
<td>3.5.2.C</td>
<td>L/C</td>
<td>L/C</td>
<td>L/C</td>
<td>L/C</td>
</tr>
</tbody>
</table>

* * *

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

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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 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 and the tower is taller than 30 feet in height as measured from the base to the highest point on the tower, including the antenna, 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;
(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. 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. 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 feet. The tower must be a minimum of 300 feet from any residence. A Telecommunications Tower conditional use application may be filed with the Hearing Examiner to deviate from this standard.

v. In the LSC, IL, IM, and IH zones, the tower is a maximum height of 199 feet with a setback of one foot for every foot of height from all properties zoned Agricultural, Rural Residential, or Residential.

vi. In the GR and EOF zones, the tower is a maximum height of 150 feet with a setback of one foot for every foot of height from all properties zoned Agricultural, Rural Residential, or Residential. A Telecommunications Tower conditional use application may be filed with the Hearing Examiner to deviate from this standard.
vii. In the RNC and all residential zones, all towers taller than 30 feet as measured from the base of the structure to the highest point are only allowed as a conditional use under subsection c.

b. Where a Telecommunications Tower is allowed as a limited use and the tower is 30 feet in height or shorter as measured from the base to the highest point on the tower, including the antenna, it must satisfy the following standards:

i. The tower must be located in a public right-of-way.

ii. The height of the structure, including the antenna, must not exceed the height of the nearest pre-existing street light or utility pole, plus the greater of:

(A) 20 percent of the height of the existing pole; or
(B) 10 feet.

iii. The tower must be set back a distance of one foot for every foot in height, including the antenna, from any off-site dwelling unit.

iv. The tower must not be more than 8 inches in diameter.

v. Any equipment cabinet at the base of the tower must not exceed 25 cubic feet of volume.

vi. The tower must not be staffed.

vii. Signs or illumination on the antennas or support structure, with the exception of a street light, are prohibited unless required the County.

viii. Each owner of the tower must accept responsibility for maintaining the tower in a safe condition.
ix. The tower must be removed at the cost of the owner of the tower when the tower is no longer in use by any wireless communication carrier for more than 12 months.

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

* * *

Section 3.5.14. Accessory Commercial Uses

* * *

C. Antenna on Existing Structure

1. Defined

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

2. Use Standards

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

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

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

   ii. directional or panel antennas with a maximum height of 8 feet and a maximum width of 2 feet;

   iii. satellite or microwave dish antennas with a maximum diameter of 8 feet; and
iv. small cell antennas with a maximum height of 3 feet and a maximum width of 2 feet.

* * *

e. When located on a structure at least 30 feet from a detached house or a duplex building type, a small cell antenna that satisfies Section 3.5.14.C.2.a.iv may be installed on any existing structure, at a minimum height of 15 feet, in any zone where an antenna on an existing structure is allowed.

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

DIVISION 8.3. Planned Unit Development Zones

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Section 8.3.3. T-S Zone

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B. Land Uses

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

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

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

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

   b. the development is approved under this procedure.
4. No use may occupy a location other than indicated on the approved site plan.

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

7. If the provisions of Section 3.5.2.C.2.b are satisfied, a telecommunications tower that is 30 foot tall or shorter, including the antenna, is allowed and a site plan amendment is not required.

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

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

Sec. 4. Effective date. This ordinance becomes effective 20 days after approval.
This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council