

## **ARTICLE XI Telecommunications Facilities**

### **§267-90. Purpose.**

The County finds that the provisions of this Article are necessary in order to:

- A. Minimize the number of communications towers in Harford County.
- B. Encourage the co-location of telecommunications facilities.
- C. Encourage the use of existing buildings, towers, lights, utility poles, water towers and other similar structures for antennas.
- D. Allow telecommunications providers to build out their systems over time.
- E. Ensure that all telecommunications facilities, including towers, antennas and ancillary facilities, are located and designed to minimize the visual impact on the immediate surroundings and throughout the County.
- F. Require the County to create a government information system database that contains information regarding the location of all communications antennas, the location of all communications towers and information relative to the carrying capacity of each tower.
- G. Ensure that all telecommunications facilities, including towers, antennas and ancillary facilities, are installed in such a manner as to minimize disturbance to existing vegetation and designed to include suitable landscaping to buffer the facility, where necessary.
- H. Ensure that if a new communications tower must be built, the tower should be:
  - (1) Constructed to accommodate 3 or more providers when practical;
  - (2) Erected in a medium or high intensity commercial zone when practical;
  - (3) Located and designed to minimize visibility from residential properties; and
  - (4) Available for co-location for a government sanctioned public safety use prior to its availability to another provider.

### **§267-91. Accessory Uses.**

- A. Communications antennas may be placed, as accessory uses, upon any existing structure in any district as a matter of right, subject to the following restrictions:
  - (1) Communications antennas and any related mounting structures may not be more than 12 feet in total height without a variance;
  - (2) No communications antennas shall be placed upon any single family residence;
  - (3) If the addition of communications antennas, to an existing structure, triggers a governmental lighting requirement, with respect to a facility that is not already subject to such a requirement, the addition will be allowed only by special exception through the granting of an area variance;
  - (4) A building permit shall be required; and
  - (5) Certification from the applicant that its equipment will meet all applicable Federal standards governing the emission of energy.
  - (6) Equipment buildings that do not exceed 560 square feet per building, per provider, or a single equipment building that does not exceed 560 square feet, per provider, are permitted in any district as accessory uses.

### **§267-92. Communications Towers.**

A. Communications towers shall be allowed by right, up to 199 feet, in the B3, CI, LI, GI, and (ADDED) MO Districts.

B. A communications tower shall be allowed by right within an existing overhead transmission line right-of-way provided that the height of the communications tower does not exceed the height of the existing structure by more than 20%.

C. Communications towers shall be allowed by special exception, up to 199 feet, in the RR, R1, R2, VR, VB, B1, B2 and AG Districts.

**§267-93. Provisions Applicable to All Communications Towers.**

A. All communications towers shall be structurally designed to accommodate for colocation, which shall mean the ability of the structure to allow for the placement of antennas for 3 or more carriers. This provision may be waived by the approving body if it is determined that a co-location design will have an adverse impact on the surrounding area.

B. No aviation-related lighting shall be placed upon any communications tower unless specifically required by the Federal Aviation Administration or other governmental entity.

C. Monopoles shall be the preferred communications tower structure type within the County.

D. To the extent practical, communication towers shall have suitable landscaping in order to buffer the site from adjoining properties.

E. The only signage permitted on any communications tower shall be a single sign, no larger than 6 square feet, affixed to the equipment building or fence enclosure that identifies the tower owner, each locating provider and the telephone number for the person to contact in the event of an emergency.

F. All Zoning Certificate applications, for the construction of new communications towers, shall be subject to the Development Advisory Committee (DAC) review process, with the following additional requisites:

OMITTED: requires the tower owner, every 5 years, to submit certification from a professional engineer that the tower meets all building code and safety requirements.

(1) Whether an applicant has satisfied the radio frequency need requirements identified in this Section shall be reviewed by a radio frequency engineer. The engineer shall be retained by the County from an approved panel of such engineers to be created and maintained by the County. The engineer shall determine whether the applicant has shown a radio frequency need, based on coverage and/or capacity issues, or other engineering requisites, to construct a new communications tower;

(2) When the communications tower is permitted by right, the engineer's determination shall be made in the ordinary course of DAC review;

(3) When the communications tower is allowed by special exception, the County's radio frequency engineering review shall be made in connection with the staff report review pursuant to Chapter A274-1.D. Such review will be completed prior to any zoning hearing and will preclude further DAC review of radio frequency issues; and

(4) The County's radio frequency engineer shall ensure that any new tower does not interfere with or obstruct existing or proposed communications towers designed for public safety use.

G. The applicant shall be responsible for maintaining the communications tower in a safe condition.

H. Communications towers shall be utilized continuously for wireless communications. In the event that a communications tower ceases to be used for wireless communications for a period of 6 months, the approval will be revoked. In the event that the Zoning Administrator is presented with evidence that further viability of the tower is imminent, the Zoning Administrator may grant 1 extension of the approval for a period not to exceed 6 months beyond the revocation of the use. The applicant shall take all necessary steps to dismantle the tower, and remove,

and dispose of, all visible remnants and materials from the subject parcel within 90 calendar days after termination. The applicant shall ensure removal of the tower and all associated accessory structures by posting an acceptable monetary guarantee with the County on forms provided by the Department of Planning and Zoning. The guarantee shall be submitted prior to the issuance of a building permit and shall be for an amount equal to a cost estimate approved by the Zoning Administrator for the removal of the tower, plus a 15% contingency.

I. Every application for the construction of a new communications tower shall include the following:

(1) Information demonstrating the applicant's radio frequency need for the facility, including computer modeling information, an explanation as to why co-location is not feasible and a list of alternative sites considered;

(2) A checklist prepared, in conformity with Section 106 of the National Environmental Policy Act, and any other documents filed by the applicant with the FCC related to this site if requested by the Department;

(3) A site plan, including the layout of the site, a drawing or other physical depiction of the proposed communications tower and any equipment buildings, and a map showing the area within a one mile radius of the tower;

(4) A description of the number of carriers' equipment that the tower can accommodate and a statement as to whether the applicant will allow other carriers to co-locate on the facility;

(5) Documentation demonstrating the tower shall be designed and constructed in accordance with any applicable American National Standards Institute standards;

(6) Proof that the applicant owns, or otherwise has permission to use, the site, along with any easements necessary to access the site;

(7) A certification from each carrier that will utilize the facility that its equipment will meet all applicable Federal standards governing the emission of energy from such facilities; and

(8) A nonbonding 5-year plan showing the applicant's existing and proposed communications network within the County. In accordance with State law on access to public records, § 10-611 et seq. of the State Government Article, the department shall treat the 5-year plan it obtains as confidential **and shall not permit public inspection of that information.**

J. When proposing a new communications tower, the applicant must demonstrate a radio frequency need for such a facility by showing:

(1) That the applicant has researched the co-location possibilities in the area, including in its research a review of the County's database of structures; and

(2) That due to the absence of sufficiently tall structures in the search area, the absence of structural capacity on existing structures or other valid engineering or economic factors, no viable co-location opportunities exist in the search area.

#### **§267-94. Additional Special Exception Requirements.**

An applicant proposing a new communications tower in the RR, R1, R2, VR, VB, B1, B2 or AG Districts shall demonstrate that the request complies with the following conditions:

A. The placement of the communications tower, at the proposed location, will not have a material negative impact on the value, use or enjoyment of any **adjoining** parcel **within visual line of sight.**

**FOH: These towers are very tall and impact more than just the neighbor next door.**

B. The applicant has made a diligent attempt to locate the applicant's antenna on an existing tower or nonresidential building or structure.

C. The applicant shall provide the following additional information in support of its application:

(1) Photographs of existing site conditions;

(2) Photographs demonstrating that a balloon test has been conducted, or other evidence depicting the visual impact of the proposed tower within a 1 mile radius of the tower; and

(3) A map describing the topography of the site and the area within a one-mile radius of the proposed tower.

**§267-95. Additional Provisions Applicable to Proposed Sitings in RR, R1, R2, VR, VB and B1 Districts.**

Applications proposing new communications towers in the RR, R1, R2, VR, VB and B1 Districts shall be presumed not to be favored unless the applicant can demonstrate that no suitable alternative site exists. In order to obtain a special exception in one of these districts, the applicant must demonstrate, in addition to the requisites applicable to all other tower requests, the following:

A. There exists no suitable alternative location in a B2, B3, CI, GI, LI or AG district identifying with particularity any other sites considered;

B. There is something unique about the proposed location, such as its size, the nature of surrounding uses or other factors, that negates the presumption that such facilities are generally incompatible with residential zoning; and

C. That due to the location, elevation, engineering, technical feasibility or inability to obtain a lease or ownership of a location elsewhere, the construction of a tower at the proposed location is warranted.

**§267-96. Public Safety Uses.**

The construction of communications towers, determined to be necessary, in accordance with a plan approved by the County Council, for government sanctioned public safety use, or the mounting of communications antennas for government sanctioned public safety use, is exempt from the provisions contained in §267-93 (Additional Special Exception Requirements), and §267- 94 (Additional Provisions Applicable to Proposed Sitings in RR, R1, R2, VR, VB and B1 Districts), of this legislation. Public safety use is defined as local and State law enforcement agencies and emergency operations center, including the oversight of the fire companies and medical services, designed to protect the health, safety and welfare of the public, but does not include the operations of the Department of Inspections, Licenses and Permits or the Humane Society.