

**COUNTY COUNCIL OF CECIL COUNTY, MARYLAND
LEGISLATIVE SESSION DAY 2016-22**

BILL NO. 2016-25

Title of Bill: Amendment – Zoning Ordinance – Communications Towers

Synopsis: An Act to amend the Cecil County Zoning Ordinance, Article V, Part VIII, Section 115 Communications Towers in order to allow Communication Towers in Open Space Districts (OS) under certain conditions.

Introduced by: Council President on behalf of the County Executive

Introduced and ordered posted on: December 20, 2016

Public hearing scheduled on: January 17, 2017 at: 7:00 p.m.

Scheduled for consideration: February 7, 2017

By: _____
Council Manager

PUBLIC HEARING

Notice of time and place of public hearing and title of Bill having been posted by _____ at the County Administration Building, 200 Chesapeake Blvd., Elkton and having been published according to the Charter on _____, a public hearing was held on _____ and concluded on _____.

By: _____
Council Manager

Explanation: CAPITAL LETTERS INDICATE LANGUAGE ADDED TO EXISTING DOCUMENT
~~Strike through~~ indicates language deleted from existing document
Underlining indicates language added to document by amendment.
~~Double Strike through~~ indicates language stricken from document by amendment.

1 **WHEREAS**, pursuant to Annotated Code of Maryland, Division 1, Title 4, Subtitle 1, Section
2 4-101(a)(1), Land Use Article, it is the policy of the State that orderly development and use of land and
3 structures requires comprehensive regulation through the implementation of planning and zoning
4 controls; and

5 **WHEREAS**, pursuant to Annotated Code of Maryland, Section 4-102, Land Use Article, a legislative
6 body may regulate to promote the health, safety, and general welfare of the community; and

7 **WHEREAS**, pursuant to Annotated Code of Maryland, Section 4-103, Land Use Article, a legislative
8 body may impose any additional conditions or limitations that the legislative body considers appropriate
9 to improve or protect the general character and design of the land and improvements being zoned or
10 rezoned; and

11 **WHEREAS**, pursuant to Annotated Code of Maryland, Section 4-202, Land Use Article, the
12 legislative body shall adopt zoning regulations in accordance with the plan, with reasonable
13 consideration for the character of the district or zone and its uses and with a view to conserve the value
14 of property and encourage orderly development and the most appropriate use of land; and

15 **WHEREAS**, pursuant to Annotated Code of Maryland, Section 4-203(a), Land Use Article, a
16 legislative body shall provide for the manner in which its zoning regulations and the boundaries of
17 districts and zones shall be established, enforced and amended; and

18 **WHEREAS**, pursuant to Annotated Code of Maryland, Section 4-203(b)(1), Land Use Article, a
19 legislative body shall hold at least one public hearing on a proposed zoning regulation or boundary at
20 which parties of interest and citizens have an opportunity to be heard; and

21 **WHEREAS**, pursuant to Annotated Code of Maryland, Section 4-203(b)(2), Land Use Article,
22 the legislative body shall publish notice of the time and place of the public hearing, together with a
23 summary of the proposed zoning regulations or boundary, in at least one newspaper of general
24 circulation in the local jurisdiction once each week for 2 successive weeks; and

25 **NOW, THEREFORE, BE IT HEREBY ENACTED BY THE COUNTY COUNCIL OF CECIL COUNTY,**
26 **MARYLAND**, that the proposed amendment to Article V, Part VIII, Section 115 of the Cecil County Zoning
27 Ordinance is hereby adopted as follows:

28 **Section 115. Communications Towers**

Communication towers may be permitted as a Special Exception in the NAR, SAR, LDR, ST, UR, MH,

29 RM, RMU, and EMU zones and shall be permitted in the BG, BI, OS, M1 and M2 zones provided:

- 30 1. Except in the NAR & SAR zones, the proposed tower shall have a setback of one foot from all
31 property lines for every foot of height of the tower and associated antennae. Upon a
32 showing by the applicant that the proposed tower is structurally engineered in such a
33 manner that a reduced fall zone is adequate, the Board of Appeals may reduce the setback
34 to no less than one half (1/2) the height of the proposed tower. Such a showing must be
35 based on the written testimony of a structural engineer or other qualified professional. In
36 the NAR & SAR zones, the proposed tower shall have a setback of three times the height of
37 the tower from the nearest principal roadway and a setback of one foot from all other
38 property lines for every foot of height of the tower. New towers shall be built at the lowest
39 height possible that will still allow for co-location and will not necessitate the construction of
40 additional towers to achieve the same service coverage objectives.
- 41 2. The applicant shall demonstrate that a diligent effort has been made to locate the proposed
42 communication facility on an existing structure or in a non-residential zoning district, and
43 that due to valid considerations, including physical constraints and economic or technical
44 feasibility, no other appropriate location is available. An alternate analysis prepared by
45 the applicant shall address the following:
- 46 a. all reasonably feasible alternative locations or facilities that would provide the
47 proposed communication service;
 - 48 b. an analysis indicating whether an existing facility can be structurally modified to
49 accommodate the applicant's proposed use and coverage;
 - 50 c. the potential for co-location at an existing or a new site and the potential to locate
51 facilities as close as possible to the intended service area;
 - 52 d. the rationale for the selection of the proposed site in view of relative merits of any
53 feasible alternatives;
 - 54 e. a system design plan that shall include:
 - 55 i. radio frequency parameters;
 - 56 ii. tower height;
 - 57 iii. number of antennas that the proposed tower can accommodate at

58 capacity;

59 iv. radio frequency output; and

60 v. effective radiated power and azimuth antenna type.

61 f. demonstration of a good faith effort to co-locate with other carriers including
62 a survey of all existing structures that may be reasonable for co-location and
63 contacts with other service providers in the County.

64 The information submitted by the applicant shall include a map of the area to be served by
65 the tower, its relationship to other antenna sites in the applicant’s network, an evaluation of
66 existing structures taller than 50 feet, and communication towers, electrical transmission
67 towers, and water towers within a one-half mile radius of the proposed tower, aerial and
68 ground photographs of the site and surrounding areas, elevation drawings of all equipment
69 and storage buildings on the property, and the color and building materials to be used on
70 the proposed telecommunication facility.

71 3. New communication towers shall be designed to accommodate antennas for more than one
72 user, unless the applicant demonstrates why such design is not feasible for economic,
73 technical, or physical reasons. Unless co-location has been determined to be infeasible, the
74 Plan shall delineate an area near the base of the tower to be used for the placement of
75 additional equipment buildings for other users.

76 4. Where feasible, the tower shall be situated within or adjacent to mature tree growth and
77 understory vegetation that provides an effective year round visual buffer and should only be
78 considered elsewhere on the property when technical or aesthetic reasons indicate there
79 are no other preferable locations. Ground level equipment and buildings and the tower base
80 shall be screened from public streets and residentially zoned properties. Ground level
81 equipment buildings shall be constructed of either masonry or wood with either wood, vinyl,
82 reinforced concrete, or other good quality siding material.

83 5. Communication Towers shall be gray or a similar color that minimizes visibility, unless a
84 different color is required by the Federal Communications Commission or the Federal
85 Aviation Administration.

86 6. No signals or lights shall be permitted on a tower unless required by the Federal

87 Communications Commission or the Federal Aviation Administration.

88 7. A Communication Tower that is no longer in use shall be removed from the site within six (6)
89 months of the date that the uses cease.

90 **AND BE IT FURTHER ENACTED** that this Act shall take effect 60 calendar days from the date it
91 becomes law.

CERTIFICATION

I, HEREBY CERTIFY that the above Bill was posted for the public on the public bulletin board with the date, time and location of the public hearing meeting, copies were made available for the public, a copy was distributed to the press, and copy was made available on the Cecil County website.

BY: Council Manager