

Ordinance No.: 19-41  
Zoning Text Amendment No.: 22-01  
Concerning: Antenna on Existing  
Structure – Use Standards  
Draft No. & Date: 2 – 10/19/2022  
Introduced: February 15, 2022  
Public Hearing: September 13, 2022  
Adopted: October 25, 2022  
Effective: November 14, 2022

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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Lead Sponsor: Councilmember Riemer

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- reduce the setback for antennas on existing structures; and
- generally amend the antenna on existing structures provisions.

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

Division 3.5. “Commercial Uses”

Section 3.5.14. “Accessory Commercial Uses”

Section 3.5.14.C. “Antenna on Existing Structure”

**EXPLANATION:** ***Boldface** indicates a Heading or a defined term.*

*Underlining indicates text that is added to existing law by the original text amendment.*

*[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.*

*[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.*

*\* \* \* indicates existing law unaffected by the text amendment.*

## OPINION

Zoning Text Amendment (ZTA) 22-01, Antenna on Existing Structure – Use Standards, lead sponsor Councilmember Riemer, was introduced on February 8, 2022. ZTA 22-01 will reduce the setback for Antenna on Existing Structure in the Rural Residential, Residential, or Planned Unit Development zones to 30 feet.

The Office of Legislative Oversight (OLO) submitted a Racial Equity and Social Justice (RESJ) Impact Statement on July 1, 2022. OLO found that it could not determine the impact of ZTA 22-01 on racial equity and social justice in the County.

The Planning Board unanimously recommended approval of ZTA 22-01 on July 14, 2022.

A public hearing was held on September 13, 2022. Several speakers testified, both in opposition and support. The Council also received several letters, both in opposition and support. Testimony in opposition argued the approval process for Antenna on Existing Structure lacks public input, that the negative effects of radiation have not been sufficiently studied, and that the technology has become obsolete. Testimony in support argued this infrastructure is needed to support businesses and public services, increase connectivity, and encourage colocation.

The PHED Committee held worksessions on October 3 and October 10, 2022. The PHED Committee recommended several amendments to make ZTA 22-01 more consistent with ZTA 19-07, Telecommunications Towers. These amendments included: 1) clarifying that the use standards apply to both the antenna and its related equipment; 2) adding preferential placement language for Antenna on Existing Structure with a setback of 90 feet or less; 3) limiting pole proliferation; 4) requiring the removal of deactivated Antenna on Existing Structure; 5) encouraging the protection of tree canopies; and 6) requiring maintenance of the antenna and its equipment.

The District Council had a worksession on October 18, 2022. During the worksession, the Council supported without objection a motion to use the term “building intended for human occupation”, rather than “dwelling”, consistent with ZTA 19-07.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 22-01 will be approved as amended.

## 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:*

1           **Sec. 1. DIVISION 59-3.5 is amended as follows:**

2   **Division 3.5 Commercial Uses**

3   \*   \*   \*

4   **Section 3.5.14. Accessory Commercial Uses**

5   \*   \*   \*

6   **C.    Antenna on Existing Structure**

7   \*   \*   \*

8           **2.    Use Standards**

9   \*   \*   \*

10           e.    An antenna classified as Standard A under Section 3.5.2.C.1.b  
11                may be installed on any existing structure located in the right-  
12                of-way in any zone where an antenna on an existing structure is  
13                allowed, if:

- 14                i.    the antenna is in an enclosure and the enclosure is the  
15                       same color or pattern as the existing structure;
- 16                ii.   the antenna and the antenna enclosure is installed at a  
17                       minimum height of 15 feet; and
- 18                iii.   the [structure][[antenna]]Antenna on Existing Structure is  
19                       at least [60]30 feet from a [[dwelling]]building intended  
20                       for human occupation in a Rural Residential, Residential,  
21                       or Planned Unit Development zone, and at least 10 feet  
22                       from any structure in any Commercial/Residential,  
23                       Employment, or Industrial zone.

24           f.    Antennas installed under Section 3.5.14.C.2.e.iii. must meet the  
25               following use standards:

- 26                i.    Whenever it is legally and technically feasible, an  
27                       Antenna on Existing Structure located 90 feet or less

28 from a building intended for human occupation in a Rural  
29 Residential, Residential, or Planned Unit Development  
30 zone should be located closest to intersections, closest to  
31 property lines between dwellings, along the non-front-  
32 facing side of residential properties, or along abutting  
33 properties used for a non-residential purpose. In addition,  
34 the Antenna on Existing Structure must be at least 5 feet  
35 from the area between two parallel lines extending from  
36 the sides of a residential front door. If the applicant  
37 cannot meet the foregoing standards, the applicant must  
38 include in their application an affidavit proving that  
39 either permission from the pole owner cannot be obtained  
40 or service cannot be provided using a pole at an alternate  
41 location.

42 ii. An Antenna on Existing Structure must be located at  
43 least 150 feet from the nearest antenna occupied or  
44 controlled by the same carrier.

45 iii. An Antenna on Existing Structure must be removed  
46 within 30 days of deactivation.

47 iv. The owner of the Antenna on Existing Structure must  
48 maintain the Antenna on Existing Structure in a safe  
49 condition. The owner must remove graffiti and repair  
50 damage to the facility.

51 \* \* \*

52 **Sec. 2. Tree Loss Minimization.** The County Executive must include tree  
53 loss minimization language in all franchise and license agreements signed after the  
54 effective date of ZTA 22-01. Critical damage to the root zones of trees as well as

55 excessive pruning should be avoided in the installation of an Antenna on Existing  
56 Structure.

57 \* \* \*

58 **Sec. [[2]]3. Effective date.** This ordinance becomes effective 20 days after  
59 the date of Council adoption.

This is a correct copy of Council action.



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Judy Rupp  
Clerk of the Council